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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
UNITED STATES OF AMERICA,
ex rel. THE SAINT REGIS
MOHAWK TRIBE,
Plaintiff,
vs. Case No.
02-CV0845
PRESIDENT R.C.-ST. REGIS (TJM) (DEP)
MANAGEMENT COMPANY and
ANDERSON-BLAKE CONSTRUCTION
CORPORATION,
Defendants.

X

DEPOSITION OF GARY MELIUS

Mineola, New York

Wednesday, March 24, 2004

Reported by:
DONNA PALMIERI
JOB NO. 1097

<p style="text-align: right;">Page 2</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7 March 24, 2004</p> <p>8 10:00 a.m.</p> <p>9</p> <p>10</p> <p>11</p> <p>12 Deposition of GARY MELIUS, held</p> <p>13 at the offices of Meltzer, Lippe &</p> <p>14 Goldstein, LLP, 190 Willis Avenue,</p> <p>15 Mineola, New York, before Donna Palmieri,</p> <p>16 a Notary Public of the State of New York.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 3</p> <p>1</p> <p>2 A P P E A R A N C E S:</p> <p>3 BARR and ASSOCIATES, P.C.</p> <p>4 Attorneys for Plaintiff</p> <p>5 125 Mountain Road</p> <p>6 Stowe, Vermont 95672</p> <p>7 BY: RUSSELL D. BARR, ESQ.</p> <p>8 DANIEL A. SEFF, ESQ.</p> <p>9</p> <p>10</p> <p>11 MELTZER, LIPPE & GOLDSTEIN, LLP</p> <p>12 Attorneys for Defendant</p> <p>13 President R.C. - Saint Regis</p> <p>14 Management Company</p> <p>15 190 Willis Avenue</p> <p>16 Mineola, New York 11501</p> <p>17 BY: LORETTA M. GASTWIRTH, ESQ.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 4</p> <p>1</p> <p>2 A P P E A R A N C E S:</p> <p>3 SWIDLER, BERLIN, SHEREFF & FRIEDMAN, LLP</p> <p>4 Attorneys for Defendant</p> <p>5 President R.C. - Saint Regis</p> <p>6 Management Company</p> <p>7 405 Lexington Avenue</p> <p>8 New York, New York 10174</p> <p>9 BY: LOUIS M. SOLOMON, ESQ.</p> <p>10</p> <p>11</p> <p>12 LAW OFFICES OF MARLENE L. BUDD, ESQ.</p> <p>13 Attorney for Defendant</p> <p>14 Anderson-Blake Construction Company</p> <p>15 2 Brush Place</p> <p>16 Huntington, New York 11743</p> <p>17 BY: MARLENE L. BUDD, ESQ.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1</p> <p>2 - oOo -</p> <p>3 IT IS HEREBY STIPULATED AND AGREED</p> <p>4 by and between the attorneys for the</p> <p>5 respective parties herein, that filing and</p> <p>6 sealing be and the same are hereby waived.</p> <p>7 IT IS FURTHER STIPULATED AND AGREED</p> <p>8 that all objections, except as to the form of</p> <p>9 the question, shall be reserved to the time of</p> <p>10 the trial.</p> <p>11 IT IS FURTHER STIPULATED AND AGREED</p> <p>12 that the within deposition may be sworn to and</p> <p>13 signed before any officer authorized to</p> <p>14 administer an oath, with the same force and</p> <p>15 effect as if signed and sworn to before the</p> <p>16 Court.</p> <p>17</p> <p>18 - oOo -</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 6</p> <p>1 Melius</p> <p>2 G A R Y M E L I U S, called as a witness,</p> <p>3 having been duly sworn by a Notary Public,</p> <p>4 was examined and testified as follows:</p> <p>5 EXAMINATION</p> <p>6 BY MR. BARR:</p> <p>7 Q. State your name for the record,</p> <p>8 please</p> <p>9 A. Gary Melius.</p> <p>10 Q. What is your address?</p> <p>11 A. 54 Sandy Hill Road, Oyster Bay</p> <p>12 Cove, New York 11771.</p> <p>13 Q. Good morning, Gary.</p> <p>14 A. Good morning.</p> <p>15 Q. My name is Russell Barr. I</p> <p>16 represent Saint Regis Mohwak Tribe here with</p> <p>17 Daniel Seff. I'm going to ask you a bunch of</p> <p>18 questions today. I would imagine you've taken</p> <p>19 a deposition before.</p> <p>20 Have you ever taken a deposition</p> <p>21 before?</p> <p>22 A. Yes.</p> <p>23 Q. Are you familiar with sort of the</p> <p>24 ground rules?</p> <p>25 A. Sort of.</p>	<p style="text-align: right;">Page 7</p> <p>1 Melius</p> <p>2 Q. We're supposed to communicate</p> <p>3 verbally as opposed to a nod of the head. I'm</p> <p>4 just trying to ask you questions. If you</p> <p>5 don't understand anything, just ask me to</p> <p>6 rephrase it or if your attorney objects, you</p> <p>7 can answer the question if you understand it</p> <p>8 unless your attorney directs you not to answer</p> <p>9 the question.</p> <p>10 If at any time you want to take a</p> <p>11 break, for whatever reason, you need to go to</p> <p>12 the bathroom, get a drink of water, just feel</p> <p>13 free. If there's a pending question, you</p> <p>14 should probably answer the question before.</p> <p>15 I'm going to start off by asking</p> <p>16 some general background questions, and I'm</p> <p>17 going to go into general corporate structure.</p> <p>18 The background really is to sort of really get</p> <p>19 us warmed up.</p> <p>20 What is your age?</p> <p>21 A. Fifty-nine.</p> <p>22 Q. Your current employment?</p> <p>23 A. Oheka Catering.</p> <p>24 Q. Any medication that will affect</p> <p>25 your ability to answer questions today?</p>
<p style="text-align: right;">Page 8</p> <p>1 Melius</p> <p>2 A. No.</p> <p>3 Q. What did you do to prepare for</p> <p>4 today's deposition?</p> <p>5 A. I met for some time with my</p> <p>6 counsel.</p> <p>7 Q. I don't want to know what the</p> <p>8 substance was, obviously, but how long did you</p> <p>9 meet with your counsel?</p> <p>10 A. I think less than a hour.</p> <p>11 Q. That was this morning?</p> <p>12 A. No, yesterday.</p> <p>13 Q. Did you review any documents?</p> <p>14 A. No.</p> <p>15 Q. Anybody else other than your</p> <p>16 counsel?</p> <p>17 A. Loretta.</p> <p>18 Q. Loretta doesn't represent you, does</p> <p>19 she?</p> <p>20 MS. GASTWIRTH: That's incorrect.</p> <p>21 We have a joint defense privilege.</p> <p>22 Any communications I have with Mr. Melius</p> <p>23 is protected by the privilege.</p> <p>24 MR. BARR: Were we ever supplied</p> <p>25 with that?</p>	<p style="text-align: right;">Page 9</p> <p>1 Melius</p> <p>2 I never heard you discuss that.</p> <p>3 MS. GASTWIRTH: I actually</p> <p>4 mentioned it more than once.</p> <p>5 We have a joint defense privilege.</p> <p>6 Q. How long did you meet with Loretta?</p> <p>7 A. During that same time.</p> <p>8 Q. So an hour total with Loretta and</p> <p>9 Marlene?</p> <p>10 A. I guess, yeah.</p> <p>11 Q. Anybody else?</p> <p>12 A. No.</p> <p>13 Q. So your attorney, Marlene Budd, is</p> <p>14 here on behalf of Anderson-Blake?</p> <p>15 A. Whoever is in the lawsuit.</p> <p>16 You're better off asking her.</p> <p>17 Q. I'm going to talk a little bit</p> <p>18 about corporate structure and the time period</p> <p>19 I'm going to ask about, to narrow this so we</p> <p>20 can get through this as quickly as possible,</p> <p>21 is January of 1996 to April of 2000.</p> <p>22 The first company I'm going to ask</p> <p>23 you about is Anderson-Blake Construction</p> <p>24 Corporation.</p> <p>25 Is that the right name of the</p>

<p style="text-align: right;">Page 10</p> <p>1 Melius</p> <p>2 company?</p> <p>3 A. Yes.</p> <p>4 Q. Does it go by any other name?</p> <p>5 A. Not that I know of.</p> <p>6 Q. Anderson-Blake Limited?</p> <p>7 A. I don't believe so.</p> <p>8 Q. Anderson-Blake Construction</p> <p>9 Corporation?</p> <p>10 A. Now you got me questioning it.</p> <p>11 I'm not sure. I'd have to check.</p> <p>12 Q. Anderson-Blake Saint Regis?</p> <p>13 A. I don't believe so.</p> <p>14 Q. Who is Anderson and who is Blake?</p> <p>15 A. Who is Anderson and Blake?</p> <p>16 It's like who is Abbot and</p> <p>17 Costello. I have no idea.</p> <p>18 Q. No idea?</p> <p>19 A. No.</p> <p>20 Q. Anderson-Blake Construction Company</p> <p>21 Corporation is owned by you?</p> <p>22 A. Yes.</p> <p>23 Q. It was owned by you from January</p> <p>24 1996 through April of 2000?</p> <p>25 MS. GASTWIRTH: Objection.</p>	<p style="text-align: right;">Page 11</p> <p>1 Melius</p> <p>2 A. I believe so.</p> <p>3 MS. GASTWIRTH: Objection.</p> <p>4 Are you asking was it owned by him</p> <p>5 during that time or before that time</p> <p>6 period, or you're just curious about</p> <p>7 whether during that time period it was</p> <p>8 owned by him?</p> <p>9 I don't know if you're asking for a</p> <p>10 date of incorporation.</p> <p>11 Q. Was it owned by you during January</p> <p>12 1996 through April of 2000?</p> <p>13 A. I'd have to check records.</p> <p>14 Q. It's owned by you now?</p> <p>15 A. Yes.</p> <p>16 Q. It was owned by you last year?</p> <p>17 A. Yes.</p> <p>18 Q. The year before?</p> <p>19 A. I'd have to check. Bad memory.</p> <p>20 Q. You own 100 percent stock of the</p> <p>21 company?</p> <p>22 A. Yes, I believe so. I believe so.</p> <p>23 I'm not quite sure.</p> <p>24 Q. Anybody else who would have owned</p> <p>25 Anderson-Blake?</p>
<p style="text-align: right;">Page 12</p> <p>1 Melius</p> <p>2 A. I'm not sure. I don't like to make</p> <p>3 statements without knowing.</p> <p>4 I know you don't want an incorrect</p> <p>5 answer, so I'd have to check.</p> <p>6 Q. To your best recollection, when did</p> <p>7 you acquire Anderson-Blake?</p> <p>8 A. Don't recall.</p> <p>9 Q. Is it five years, ten years?</p> <p>10 A. Don't recall. I don't want to give</p> <p>11 you a bad answer. I know it's important.</p> <p>12 Q. Who is the accountant for</p> <p>13 Anderson-Blake Construction Corporation?</p> <p>14 A. Jay Shulman & Company.</p> <p>15 Q. Do you know where he's located?</p> <p>16 A. One Old Country Road, Carle Place,</p> <p>17 New York. Don't know the zip.</p> <p>18 Q. What's the business purpose of</p> <p>19 Anderson-Blake?</p> <p>20 A. Construction.</p> <p>21 Q. Who are the officers?</p> <p>22 A. I don't know.</p> <p>23 Q. Who are the directors?</p> <p>24 A. Don't know.</p> <p>25 Q. The shareholder being you?</p>	<p style="text-align: right;">Page 13</p> <p>1 Melius</p> <p>2 A. I believe so.</p> <p>3 Q. 100 percent shareholder?</p> <p>4 A. Today, yes.</p> <p>5 Q. Where are their offices?</p> <p>6 MS. GASTWIRTH: Currently?</p> <p>7 MR. BARR: Currently.</p> <p>8 A. Well, currently they're really not</p> <p>9 doing anything.</p> <p>10 I would say 135 West Gate Drive,</p> <p>11 Huntington, New York 11743.</p> <p>12 Q. That 135 West Gate drive, did that</p> <p>13 change at any time to be One West Gate Drive?</p> <p>14 A. No.</p> <p>15 Q. Is One West Gate Drive a different</p> <p>16 property than 135 West Gate drive, if you</p> <p>17 know?</p> <p>18 A. It's not mine. I don't know.</p> <p>19 Q. Do you know who the officers of</p> <p>20 Anderson-Blake Construction Corporation were</p> <p>21 back in January of 1996?</p> <p>22 A. No.</p> <p>23 Q. Or the directors?</p> <p>24 A. No.</p> <p>25 Q. I believe you don't know who the</p>

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Page 15

1 **Melius**
2 **shareholders were in January 1996 of**
3 **Anderson-Blake.**
4 A. It's very difficult for me to be
5 specific in time frames like that. I would
6 want to look at something to try to give you a
7 proper answer.
8 **Q. How about Archon Design Limited,**
9 **does it go by any other names?**
10 A. Not that I know of.
11 **Q. It's spelled A-r-c-h-o-n?**
12 A. I'm not sure.
13 **Q. What is Archon Design Limited?**
14 A. An architectural construction
15 company.
16 **Q. A company owned by you?**
17 A. Yes.
18 **Q. For many years?**
19 A. Yes. I don't know what's "many"
20 years.
21 What's "many?"
22 **Q. Five.**
23 A. I think so. I'm not sure.
24 **Q. Do you know who the officers are**
25 **now?**

Page 16

Page 17

1 **Melius**
2 question, but no, not that I know of.
3 **Q. So you just don't know Oheka**
4 **Management Corporation; that's not one of your**
5 **companies?**
6 A. I didn't say that.
7 MS. BUDD: Objection.
8 Oheka Management is not a party to
9 this.
10 I think you're going beyond the
11 scope of this deposition. We're here to
12 take a seven-hour deposition.
13 Stick to your Complaint. Proceed.
14 MR. BARR: I'm going to keep going
15 on this because there are many entities,
16 as you well know.
17 MS. GASTWIRTH: None of which are
18 mentioned in the Complaint.
19 You're going to have to make your
20 case. We're here to take this man's
21 deposition. You're going into forays.
22 MR. BARR: I'm not going to
23 let you clutter my record. I want to get
24 this gentleman in and out.
25 Let's move on.

1 **Melius**
2 A. I believe it's just me.
3 **Q. Directors?**
4 A. I don't know.
5 **Q. I believe you said you're the 100**
6 **percent shareholder?**
7 A. I believe I am, yes. It's my
8 belief.
9 **Q. What's the relationship between**
10 **Archon and Anderson-Blake?**
11 A. They're married.
12 What do you mean "relationship?"
13 I don't know. I don't know what
14 that means.
15 **Q. They're both owned by you?**
16 A. That's correct.
17 **Q. Oheka Management Corporation.**
18 A. Okay.
19 **Q. Is that a company that you own?**
20 A. I'm not sure.
21 **Q. Is it a company that you know about**
22 **that you work for?**
23 A. I don't work for, no.
24 **Q. Does it go by any other name?**
25 A. I don't even understand that

1 **Melius**
2 MS. GASTWIRTH: That is not the
3 issue of what's in the complaint.
4 MR. BARR: I'm going to make this
5 quick and easy so we don't have to argue
6 over this, whether or not Mr. Melius has
7 a management or a financial interest in
8 the management contract.
9 MS. GASTWIRTH: We'll shut you
10 down. I'll go ahead and direct him not
11 to answer. We'll move it forward.
12 MR. BARR: You're directing him not
13 to answer?
14 MS. GASTWIRTH: You go into other
15 businesses, I'll direct him not to
16 answer. I'm not sitting here for a
17 deposition of other entities. I don't
18 want to clutter your record.
19 MR. BARR: If you close the
20 deposition down, there's going to be
21 sanctions on this.
22 I'm not going to argue with you.
23 MS. GASTWIRTH: Go right ahead.
24 You have plenty of areas to cover.
25 MR. BARR: I do.

<p style="text-align: right;">Page 18</p> <p>1 Melius</p> <p>2 MS. GASTWIRTH: Let's move forward.</p> <p>3 Q. Native American Management</p> <p>4 Corporation?</p> <p>5 MS. GASTWIRTH: You can answer</p> <p>6 that.</p> <p>7 Native American Management</p> <p>8 Corporation was involved in --</p> <p>9 MR. SEFF: Don't coach your</p> <p>10 witness here. Do it in your office.</p> <p>11 MS. GASTWIRTH: I put a statement</p> <p>12 on the record he's not going into other</p> <p>13 corporations.</p> <p>14 He's free to answer on Native</p> <p>15 American Management Corporation.</p> <p>16 Q. Is that one of your companies?</p> <p>17 A. Yes.</p> <p>18 Q. Does it go by any other names?</p> <p>19 A. I have to tell you because you keep</p> <p>20 asking me that.</p> <p>21 How do you go by other names?</p> <p>22 Just explain to that to me.</p> <p>23 Q. Yes, that's a fair question.</p> <p>24 For example, if Native Management</p> <p>25 Corporation had a d/b/a called Native</p>	<p style="text-align: right;">Page 19</p> <p>1 Melius</p> <p>2 Management Co. or Native American Management.</p> <p>3 A. Let me save you some time.</p> <p>4 None of my entities go by other</p> <p>5 names.</p> <p>6 Q. So Native American Management</p> <p>7 Corporation is your company?</p> <p>8 A. I answered that before, yes, but</p> <p>9 I'm just trying to save you a question on</p> <p>10 whatever you ask me, none of my mine do.</p> <p>11 Q. Are there officers in Native</p> <p>12 American Management Corporation?</p> <p>13 A. I believe it's me.</p> <p>14 Q. A director?</p> <p>15 A. I believe it's me.</p> <p>16 Q. You were the shareholder of this</p> <p>17 company from 1996 to 2000?</p> <p>18 A. I can't tell you anything back in</p> <p>19 '96 without looking at a document.</p> <p>20 Q. Sorry.</p> <p>21 A. Without looking at a document, I</p> <p>22 couldn't tell you.</p> <p>23 Q. Nassau County Native Americans, is</p> <p>24 that one of your companies?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 20</p> <p>1 Melius</p> <p>2 Q. Are you the officer?</p> <p>3 A. I don't believe it's around</p> <p>4 anymore.</p> <p>5 Q. When it was around, you were the</p> <p>6 sole shareholder?</p> <p>7 A. I don't know.</p> <p>8 Q. Castle Ventures Limited.</p> <p>9 MS. GASTWIRTH: Objection.</p> <p>10 Q. Your company.</p> <p>11 MS. BUDD: Objection.</p> <p>12 MS. GASTWIRTH: You want to direct</p> <p>13 him not to answer?</p> <p>14 MS. BUDD: No.</p> <p>15 MS. GASTWIRTH: We're not going</p> <p>16 there.</p> <p>17 RL. Save those for rulings. Mark it.</p> <p>18 MR. BARR: You're directing him to</p> <p>19 not to answer based on what theory?</p> <p>20 MS. GASTWIRTH: It has nothing to</p> <p>21 do with the Complaint.</p> <p>22 It's not relevant.</p> <p>23 MR. SEFF: It's not relevant?</p> <p>24 MR. BARR: Let's go off the record.</p> <p>25 (Discussion off the record.)</p>	<p style="text-align: right;">Page 21</p> <p>1 Melius</p> <p>2 MR. BARR: Loretta Gastwirth,</p> <p>3 you're directing Mr. Melius to not answer</p> <p>4 concerning Castle Ventures Limited?</p> <p>5 DI. MS. BUDD: I'm also directing my</p> <p>6 client not to answer.</p> <p>7 MR. BARR: The grounds are?</p> <p>8 MS. GASTWIRTH: We just stated.</p> <p>9 MS. BUDD: We just stated what the</p> <p>10 grounds are.</p> <p>11 It's not relevant.</p> <p>12 MR. SEFF: Relevance?</p> <p>13 MS. BUDD: You know what, I believe</p> <p>14 that you're harassing my client. You're</p> <p>15 going too far.</p> <p>16 MR. SEFF: It's five minutes in.</p> <p>17 MS. GASTWIRTH: We've marked it for</p> <p>18 a ruling.</p> <p>19 MR. SEFF: It's going to be a long</p> <p>20 day.</p> <p>21 THE WITNESS: I have to tell you,</p> <p>22 it's very upsetting to me you guys</p> <p>23 fighting like this.</p> <p>24 MR. BARR: I apologize. We don't</p> <p>25 want to spend more time arguing than we</p>

<p style="text-align: right;">Page 22</p> <p>1 Melius</p> <p>2 would answering these questions.</p> <p>3 Q. Do you own Oheka Castle?</p> <p>4 MS. GASTWIRTH: Objection.</p> <p>5 MS. BUDD: Same thing.</p> <p>6 MR. BARR: Same thing. We're going</p> <p>7 to put it on the side.</p> <p>8 When we get into this, you'll</p> <p>9 realize how relevant it is.</p> <p>10 MS. GASTWIRTH: Okay. That's the</p> <p>11 way to do it.</p> <p>12 Q. Did there come a time when you,</p> <p>13 Anderson-Blake, Archon Design Limited</p> <p>14 presented documents in the course of a</p> <p>15 litigation between you and Park Place?</p> <p>16 MS. BUDD: Objection.</p> <p>17 A. I don't understand. I'm lost with</p> <p>18 that.</p> <p>19 MS. BUDD: Objection to form on</p> <p>20 that.</p> <p>21 Q. Did you and your companies</p> <p>22 Anderson-Blake Construction Corporation,</p> <p>23 Archon Design Limited produce documents</p> <p>24 related to your litigation with Park Place?</p> <p>25 A. I don't know.</p>	<p style="text-align: right;">Page 23</p> <p>1 Melius</p> <p>2 MS. BUDD: Objection.</p> <p>3 A. I don't know.</p> <p>4 MS. BUDD: You're going to have to</p> <p>5 rephrase the question or break it down.</p> <p>6 MR. SEFF: What part of it don't</p> <p>7 you understand?</p> <p>8 MR. BARR: What part of it don't</p> <p>9 you understand?</p> <p>10 There are documents produced in the</p> <p>11 Park Place litigation you represented to</p> <p>12 us that we can utilize.</p> <p>13 MS. GASTWIRTH: You stuck the word</p> <p>14 "you" in there.</p> <p>15 MR. BARR: There were documents</p> <p>16 produced by Mr. Melius.</p> <p>17 MS. GASTWIRTH: There were</p> <p>18 documents produced by Archon and I</p> <p>19 also believe by Anderson-Blake.</p> <p>20 When you say "you" unless you want</p> <p>21 to say "you" in your corporation's</p> <p>22 capacity -- you also served him with an</p> <p>23 individual subpoena here.</p> <p>24 You need to stick to what your</p> <p>25 questions are.</p>
<p style="text-align: right;">Page 24</p> <p>1 Melius</p> <p>2 MR. BARR: You're cluttering my</p> <p>3 record.</p> <p>4 Either he has a recollection or</p> <p>5 not.</p> <p>6 MS. GASTWIRTH: Your question is</p> <p>7 improper.</p> <p>8 I object.</p> <p>9 MR. SEFF: You object to the form</p> <p>10 of the question?</p> <p>11 MR. BARR: You object to the form?</p> <p>12 You can answer.</p> <p>13 MS. GASTWIRTH: You know what's</p> <p>14 wrong with your question.</p> <p>15 A. I don't know.</p> <p>16 Q. Do you recall if you produced any</p> <p>17 documents in your litigation with Park Place,</p> <p>18 you or Anderson Black or Archon Design</p> <p>19 Limited?</p> <p>20 MS. GASTWIRTH: Objection.</p> <p>21 A. I don't know.</p> <p>22 Q. You don't know?</p> <p>23 A. Don't know.</p> <p>24 Q. Are you aware that those documents</p> <p>25 were supplied to my office by Park Place in</p>	<p style="text-align: right;">Page 25</p> <p>1 Melius</p> <p>2 connection with this litigation as well as the</p> <p>3 tribe State Court litigation with President,</p> <p>4 R.C.; are you aware of that?</p> <p>5 MS. BUDD: Objection.</p> <p>6 A. No.</p> <p>7 Q. Are you aware that your attorney in</p> <p>8 this case Marlene Budd has instructed us to</p> <p>9 obtain documents from Park Place rather than</p> <p>10 from you and your companies?</p> <p>11 MS. BUDD: Objection.</p> <p>12 A. No.</p> <p>13 Q. I'm going to show -- well, before I</p> <p>14 show you anything, I'm going to ask you a</p> <p>15 couple of questions about your filing system</p> <p>16 because there were documents that were given</p> <p>17 to us by Park Place that were produced by you</p> <p>18 and/or your companies to Park Place. So I'm</p> <p>19 going to ask you some questions about your</p> <p>20 filing system.</p> <p>21 How does your filing system work?</p> <p>22 MS. BUDD: Objection.</p> <p>23 What do you mean by "your?"</p> <p>24 Are you talking about Anderson</p> <p>25 Blake?</p>

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1 Melius
2 Are you talking about Archon?
3 **Q. I'm talking about you or**
4 **Anderson-Blake or Archon Design Limited?**
5 A. What do you mean "how does it
6 work?"
7 **Q. What do you do to set up documents**
8 **in the file?**
9 A. I put in a note and "file" and put
10 it in the bin.
11 **Q. So as you stamp "file," you write**
12 **something along the lines Saint Regis license**
13 **and you put it in a file?**
14 A. Yes.
15 **Q. And someone else files it for you?**
16 A. Yes.
17 **Q. Who is that that files it for you?**
18 A. Don't know.
19 **Q. Your secretary?**
20 A. Could be numerous, I don't know. I
21 Don't know who does it.
22 **Q. What casino-related files did you**
23 **maintain in the period 1996 to 2000?**
24 A. No idea.
25 **Q. Where were the files maintained at**

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1 Melius
2 either by agreement or subpoena. All I
3 know is that you two have directed us to
4 accept those documents for your discovery
5 because you have not given us any
6 documents.
7 MS. GASTWIRTH: I don't think there
8 were documents produced in that
9 litigation. The documents were produced
10 in President versus Park Place. I think
11 you're misinformed.
12 MR. BARR: Whatever the case is,
13 Mr. Melius has supplied documents, his
14 personal documents, Anderson-Blake
15 Construction documents. They're his
16 files.
17 MS. GASTWIRTH: The files belong to
18 the corporation. I want to be clear on
19 this.
20 MR. BARR: That may or may not be.
21 I don't know.
22 MS. GASTWIRTH: Ask him if he's got
23 personal files.
24 Does he keep personal filings
25 separate and apart from his

1 Melius
2 **the time that you produced the documents to**
3 **Park Place?**
4 A. I don't recall the documents.
5 I don't know.
6 MS. BUDD: Objection.
7 MS. GASTWIRTH: So we don't have to
8 object to each question, when you say
9 "you" what do you mean?
10 **Q. You individually and/or**
11 **Anderson-Blake Construction Corporation and/or**
12 **Archon Design Limited.**
13 MS. GASTWIRTH: Do you mean "you"
14 individually in his capacity as an
15 officer of Anderson-Blake or Archon?
16 MR. BARR: Again, we don't want to
17 clutter the record.
18 MS. GASTWIRTH: I want a standard
19 definition.
20 MR. BARR: If I recall correctly,
21 you'll correct me, Mr. Melius brought an
22 action against Park Place individually
23 and both on behalf of I think a few of
24 his companies. You would be in that
25 litigation. He produced documents,

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1 Melius
2 corporation?
3 MR. BARR: Let me handle it unless
4 you want to come over here.
5 MS. GASTWIRTH: I want a
6 standard definition so he's not
7 confused.
8 Are you asking about documents at
9 home, personal documents?
10 What are you asking about?
11 MR. BARR: You got to stop what
12 you're doing.
13 MR. SEFF: Let's call the judge.
14 MS. GASTWIRTH: You can do whatever
15 you want to do.
16 MR. SEFF: Off the record.
17 (Discussion off the record.)
18 **Q. Mr. Melius, do you maintain**
19 **personal files related to the Casino?**
20 A. No.
21 **Q. What I'm going to refer you to is**
22 **the Akwesasne Mohawk Casino; you and I**
23 **understand each other?**
24 A. I got that.
25 I'm listening to conversations

<p style="text-align: right;">Page 30</p> <p>1 Melius</p> <p>2 between you two about what these questions</p> <p>3 mean. I'm unclear when you say me and my</p> <p>4 files. I don't know what that means.</p> <p>5 Do I have some things that are my</p> <p>6 own personal stuff, sometimes. I don't</p> <p>7 understand.</p> <p>8 Q. With all fairness, between you and</p> <p>9 I, it's your files. I'm trying to find out</p> <p>10 about your filing system. Whether or not you</p> <p>11 file it for Anderson-Blake or Archon Design</p> <p>12 Limited or any other number of companies, you</p> <p>13 maintain files for these company.</p> <p>14 In other words, I think you just</p> <p>15 testified, and correct me if I'm wrong, you</p> <p>16 stamp "file" on it and then you handwrite</p> <p>17 "Saint Regis," for example, and that's how you</p> <p>18 do your filing?</p> <p>19 A. Yes.</p> <p>20 Q. You personally do that even though</p> <p>21 it may be for a particular company; is that</p> <p>22 fair?</p> <p>23 A. Yes.</p> <p>24 Q. Okay, there is our "you."</p> <p>25 I'm going to show you an example of</p>	<p style="text-align: right;">Page 31</p> <p>1 Melius</p> <p>2 some files and I want you to tell me if that</p> <p>3 is how you mark them.</p> <p>4 We'll mark it in a minute.</p> <p>5 MS. GASTWIRTH: Are those multiple</p> <p>6 copies?</p> <p>7 MR. BARR: No.</p> <p>8 A. Yes.</p> <p>9 MR. BARR: Can you mark that.</p> <p>10 (Plaintiff's Exhibit 1, four-page</p> <p>11 document, Watertown Daily Times article,</p> <p>12 Tribal Council resolution, handwritten</p> <p>13 notes and NYS Police letter for</p> <p>14 identification, as of this date, by the</p> <p>15 reporter.)</p> <p>16 Q. What the court reporter has just</p> <p>17 done, Gary, is mark Plaintiff's Exhibit 1.</p> <p>18 When your attorneys are done looking at it,</p> <p>19 I'm just going to ask you to take a look at it</p> <p>20 again.</p> <p>21 You've already testified that those</p> <p>22 documents do come from your files?</p> <p>23 A. No, I didn't say that.</p> <p>24 I said that's how I marked them.</p> <p>25 MR. BARR: Fair enough.</p>
<p style="text-align: right;">Page 32</p> <p>1 Melius</p> <p>2 MS. BUDD: These documents have</p> <p>3 never been produced. They don't have a</p> <p>4 Bates stamp. I just want to inquire as</p> <p>5 to why.</p> <p>6 MR. SEFF: Well, we got 13 boxes of</p> <p>7 documents from Park Place that you</p> <p>8 produced to Park Place and they didn't</p> <p>9 have any Bates numbers on them. This is</p> <p>10 what's been colloquially referred to as</p> <p>11 "the Melius production."</p> <p>12 MS. GASTWIRTH: Okay. So we'll</p> <p>13 define it that way.</p> <p>14 Do you know what the date of this</p> <p>15 Watertown Times article is; do you happen</p> <p>16 to know?</p> <p>17 MR. BARR: These are just examples</p> <p>18 of his filing so we can have an idea of</p> <p>19 his filing. That's all. There's nothing</p> <p>20 in there, certainly of our opinion,</p> <p>21 that's of real substance, just that</p> <p>22 they're examples.</p> <p>23 MS. GASTWIRTH: Okay.</p> <p>24 Q. So Plaintiff's 1, first page, is</p> <p>25 that your file stamp on it?</p>	<p style="text-align: right;">Page 33</p> <p>1 Melius</p> <p>2 A. It appears to be.</p> <p>3 Q. Is that your handwriting "Saint</p> <p>4 Regis Park Place?"</p> <p>5 A. It appears to be.</p> <p>6 Q. And the next page if you could just</p> <p>7 turn the page there the upper righthand</p> <p>8 corner, is that your file stamp?</p> <p>9 A. It appears to be.</p> <p>10 Q. Is that your handwriting "Saint</p> <p>11 Regis contract?"</p> <p>12 A. It appears to be.</p> <p>13 Q. The next page, is that an example</p> <p>14 of your handwriting?</p> <p>15 A. It looks like it.</p> <p>16 Q. And the next page same question, is</p> <p>17 that your file stamp?</p> <p>18 A. It appears to be.</p> <p>19 Q. It says "Saint Regis contract."</p> <p>20 Is that your handwriting?</p> <p>21 A. Yes.</p> <p>22 Q. You got handwriting like me.</p> <p>23 A. I got terrible handwriting.</p> <p>24 Q. Next topic. Your role in the</p> <p>25 Akwesasne Mohawk Casino.</p>

<p style="text-align: right;">Page 34</p> <p>1 Melius</p> <p>2 What roles did you or your entities</p> <p>3 play in connection with the Akwesasne Mohawk</p> <p>4 Casino prior to September 1996?</p> <p>5 A. I can't tell you anything back on</p> <p>6 dates like that. I have no idea.</p> <p>7 Q. How about your role in connection</p> <p>8 with the Akwesasne Mohawk Casino during the</p> <p>9 period September of 1996 to September of 1997?</p> <p>10 A. No.</p> <p>11 MS. BUDD: Objection as to the</p> <p>12 form.</p> <p>13 What do you mean by "role?"</p> <p>14 MR. BARR: I believe he answered</p> <p>15 the question.</p> <p>16 I think he understood it.</p> <p>17 Q. Your attorney can object to form,</p> <p>18 but if you understand the question you can</p> <p>19 answer it. She's now interposing an objection</p> <p>20 as to form.</p> <p>21 A. I understand it.</p> <p>22 Q. You understand it. Thank you.</p> <p>23 How about after September of 1997,</p> <p>24 did you have any role in the Casino's</p> <p>25 management?</p>	<p style="text-align: right;">Page 35</p> <p>1 Melius</p> <p>2 A. Never had.</p> <p>3 Q. Never had?</p> <p>4 A. Never had.</p> <p>5 Q. After 1997, did any of your</p> <p>6 entities or employees have any role in the</p> <p>7 Casino's management?</p> <p>8 A. No.</p> <p>9 Q. After January of 1998, did you have</p> <p>10 any role in the Casino's management?</p> <p>11 A. No.</p> <p>12 Q. After January 1998, did any of your</p> <p>13 entities or employees have any role in the</p> <p>14 Casino's management?</p> <p>15 A. No.</p> <p>16 Q. Just so the record is clear.</p> <p>17 When I refer to "the Casino," it's</p> <p>18 the Akwesasne Mohawk Casino.</p> <p>19 A. Correct.</p> <p>20 Q. On or about April of 1999, I</p> <p>21 believe, the Casino opened?</p> <p>22 A. I don't know.</p> <p>23 Q. After April of 1999, did you have</p> <p>24 any role in the Casino's management?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 36</p> <p>1 Melius</p> <p>2 Q. After April 1999, did any of your</p> <p>3 entities or employees have any role in the</p> <p>4 Casino's management?</p> <p>5 A. No.</p> <p>6 Q. In November of 1997, were you</p> <p>7 involved in the effort to hire a general</p> <p>8 manager for the Casino?</p> <p>9 A. No.</p> <p>10 Q. In January 1998, were you involved</p> <p>11 in selecting a consulting firm to perform a</p> <p>12 gaming assessment for the Akwesasne Mohawk</p> <p>13 Casino?</p> <p>14 MS. BUDD: Objection.</p> <p>15 A. I don't recall anything like that.</p> <p>16 Q. In the summer of 1998, were you</p> <p>17 involved in the process of selecting the</p> <p>18 gaming machines, i.e. video lottery terminals?</p> <p>19 A. No.</p> <p>20 Q. During the period of October to</p> <p>21 December of 1998, were you involved in the</p> <p>22 effort to obtain financing for the Casino?</p> <p>23 MS. BUDD: I'm going to object to</p> <p>24 the term "involved."</p> <p>25 What do you mean by "involved?"</p>	<p style="text-align: right;">Page 37</p> <p>1 Melius</p> <p>2 Q. If you understand the question, you</p> <p>3 can answer it.</p> <p>4 A. I mean, I assume involve means that</p> <p>5 I do something.</p> <p>6 Q. Very good.</p> <p>7 A. Okay.</p> <p>8 Q. During the period of October to</p> <p>9 December 1998, were you involved in the effort</p> <p>10 to obtain financing for the Casino?</p> <p>11 A. Not that I recall.</p> <p>12 Q. In or around October 1998, were you</p> <p>13 involved in the hiring of a security</p> <p>14 consultant for the Casino manager?</p> <p>15 A. No.</p> <p>16 Q. In or around September of 1998,</p> <p>17 were you involved in the drafting of the</p> <p>18 pledge agreement for the Miller & Schroeder</p> <p>19 loans?</p> <p>20 A. I don't believe so.</p> <p>21 Q. In or around February 1999, were</p> <p>22 you or any of your employees involved in</p> <p>23 arranging builder's risk insurance coverage</p> <p>24 for the Casino?</p> <p>25 A. I don't know.</p>

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Melius

Q. In or around February 1999, were you involved in the effort to get the NIGC to increase the development expense cap from \$20 million to approximately \$28 million?

A. No.

Q. In or around March 1999, were you involved in the effort to obtain liquor licenses for the Casino?

A. No.

Q. In March and April of 1999, did you receive reports from Casino manager security consultant Mr. Al Crary, C-r-a-r-y regarding various management related issues including security and gaming?

MS. BUDD: Objection.

MS. GASTWIRTH: Objection as to form.

Go ahead and answer it, if you can.

A. I don't know.

Again, I got something from Al Crary. What it meant, what it is, I can't answer you here.

Q In April and May of 1999, were you involved in the Casino marketing?

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Melius

A. No.

Q. In May of 1999, were you involved in the effort to set up a plane proposal for the Casino?

A. No.

MS. GASTWIRTH: Sorry. I didn't understand the question, plane, p-l-a-n-e?

MR. BARR: Airplane. I think the witness understood it.

Q. In May of 1999, were you involved in the effort to receive approval from the Department of Transportation for road signs and billboards for the Casino?

A. No.

Q. In May of 1999, did you receive Casino financial information from John Natalone, N-a-t-a-l-o-n-e?

A. Don't know.

Q. In or around May 1999, were you involved in the effort to obtain an amendment to the Casino liquor licenses to allow waitress service of beer and wine at the gaming tables?

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Melius

A. I don't believe so.

Q. In or around June 1999, were you involved in marketing the Casino and, in particular, Canadian media buying?

A. No.

Q. In June of 1999, did you attend a meeting with Mr. Kaufman, Mr. Horn and Mr. Natalone at which State Police, State Racing and Wagering Board and tribal gaming issues were discussed?

A. I don't believe so.

Q. In June of 1999, did you attend a meeting with Mr. Kaufman, Mr. Horn and Mr. Natalone at which Casino security issues were discussed?

A. Not that I know of.

Q. In June of 1999, did you attend a meeting with Mr. Kaufman, Mr. Horn and Mr. Natalone at which Canadian Casino attendance issues were discussed?

A. No.

Q. In June of 1999, did you attend a meeting with Mr. Kaufman, Mr. Horn and Mr. Natalone at which state approval of video

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Melius

poker was discussed?

A. Not that I know.

Q. In June of 1999, did you attend a meeting with Mr. Kaufman, Mr. Horn and Mr. Natalone in which the addition of Keno and Lightning Bingo was discussed?

MS. BUDD: Objection.

All these questions are in connection with the casino?

You're not phrasing the question properly.

Q. I think we've got a standing understanding.

Tell me for some reason you misunderstand it.

MS. BUDD: I want the record to be clear.

Q. We're talking about the Akwesasne Mohawk Casino?

A. Yes.

Q. And you understand that?

A. Yes.

Q. So the last question was, and I'll repeat it, in June of 1999, did you attend a

<p style="text-align: right;">Page 42</p> <p>1 Melius</p> <p>2 meeting with Mr. Kaufman, Mr. Horn and</p> <p>3 Mr. Natalone in which the addition of Keno and</p> <p>4 Lightning Bingo was discussed?</p> <p>5 A. Not that I recall.</p> <p>6 Q. In June of 1999, did you attend a</p> <p>7 meeting with Mr. Kaufman, Mr. Horn and</p> <p>8 Mr. Natalone in which Casino attendance and</p> <p>9 bussing goals were discussed?</p> <p>10 A. Not that I recall.</p> <p>11 MS. GASTWIRTH: Do you have some</p> <p>12 documents maybe you want to refresh the</p> <p>13 witness's recollection, if there's such a</p> <p>14 thing, or is this a memory quiz?</p> <p>15 MR. BARR: We're going to get to</p> <p>16 it.</p> <p>17 MS. GASTWIRTH: Is this a memory</p> <p>18 quiz?</p> <p>19 I object on the basis of it being a</p> <p>20 memory quiz.</p> <p>21 Go right ahead.</p> <p>22 MR. SEFF: Did you object to the</p> <p>23 seven-hour memory quiz that you gave the</p> <p>24 chiefs?</p> <p>25 MR. BARR: Off the record.</p>	<p style="text-align: right;">Page 43</p> <p>1 Melius</p> <p>2 (Discussion off the record.)</p> <p>3 Q. In June of 1999, did you attend a</p> <p>4 meeting with Mr. Kaufman, Mr. Horn and</p> <p>5 Mr. Natalone in which the acquisition of a</p> <p>6 card shuffler was discussed?</p> <p>7 A. No.</p> <p>8 Q. In June of 1999, did you attend a</p> <p>9 meeting with Mr. Kaufman, Mr. Horn and</p> <p>10 Mr. Natalone in which automatic teller</p> <p>11 machines were discussed?</p> <p>12 A. No.</p> <p>13 Q. In June of 1999, did you attend a</p> <p>14 meeting with Mr. Kaufman, Mr. Horn and</p> <p>15 Mr. Natalone in which a reforecast Casino</p> <p>16 budget was discussed?</p> <p>17 A. No.</p> <p>18 Q. In June of 1999, did you attend a</p> <p>19 meeting with Mr. Kaufman, Mr. Horn and</p> <p>20 Mr. Natalone in which the issue of repayment</p> <p>21 by the Tribe of working capital advances were</p> <p>22 discussed?</p> <p>23 A. Not that I recall.</p> <p>24 Q. In June of 1999, did you attend a</p> <p>25 meeting with Mr. Kaufman, Mr. Horn and</p>
<p style="text-align: right;">Page 44</p> <p>1 Melius</p> <p>2 Mr. Natalone in which the payment of the</p> <p>3 Miller & Schroeder debt was discussed?</p> <p>4 A. Not that I recall.</p> <p>5 Q. In June of 1999, were you involved</p> <p>6 in the effort to obtain an amendment to the</p> <p>7 Casino liquor licenses to allow waitress</p> <p>8 service of beer and wine at the gaming tables?</p> <p>9 A. Not that I recall.</p> <p>10 Q. Last one on this one.</p> <p>11 In or around June of 1999, were you</p> <p>12 involved in the marketing of the Casino's</p> <p>13 Fourth of July weekend activities?</p> <p>14 A. No.</p> <p>15 Q In or around the end of June 1999,</p> <p>16 were you involved in the hiring of a Casino</p> <p>17 consultant to advise in the Casino's</p> <p>18 operational accounting and marketing structure</p> <p>19 and strategy?</p> <p>20 A. No.</p> <p>21 Q. In July of 1999, were you involved</p> <p>22 in evaluating what the revenues were of the</p> <p>23 Casino's food and beverage sales?</p> <p>24 A. No.</p> <p>25 Q. In July of 1999, were you involved</p>	<p style="text-align: right;">Page 45</p> <p>1 Melius</p> <p>2 in the design of a planned nightclub in the</p> <p>3 Casino?</p> <p>4 A. I don't recall.</p> <p>5 Q. In August 1999, were you involved</p> <p>6 in the evaluation and distribution of the</p> <p>7 Casino's financial results?</p> <p>8 A. No.</p> <p>9 Q. In September of 1999, were you</p> <p>10 involved in the evaluation of the Casino's</p> <p>11 July and August financial results?</p> <p>12 A. No.</p> <p>13 Q. In September of 1999, were you</p> <p>14 involved in the Casino manager's decision of</p> <p>15 whether to contribute funds to the tribal</p> <p>16 police budget?</p> <p>17 A. No.</p> <p>18 Q. In the spring and summer of 1999,</p> <p>19 was William Thornton of Anderson-Blake</p> <p>20 involved in Casino personnel and staffing</p> <p>21 decisions as to housekeepers, security</p> <p>22 officers and Casino attendants?</p> <p>23 MS. BUDD: Objection.</p> <p>24 A. Not that I recall.</p> <p>25 Q. During the period October 1999 to</p>

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1 **Melius**
2 **March of 2000, were you involved in the**
3 **attempted sale of President's interest in the**
4 **Casino Management Agreement to outside**
5 **entities?**
6 A. I have a problem with anything with
7 dates.
8 **Q. Your answer is with those dates you**
9 **can't recall?**
10 A. I can't recall with dates.
11 **Q. How about generally speaking, were**
12 **you involved in the attempted sale of**
13 **President's interest in the Casino Management**
14 **Agreement to outside entities?**
15 A. Yes.
16 **Q In June of 2000, and I know I'm**
17 **giving you a date, were you involved in an**
18 **effort to sell President's interest in the**
19 **Casino to Park Place?**
20 A. Yes. I don't know about the date.
21 I don't know "involved."
22 MS. BUDD: Objection.
23 MS. GASTWIRTH: He answered the
24 question. It has nothing to do with the
25 allegations whether the construction

1 **Melius**
2 contract is void. So we may have to see
3 where you're going with this.
4 Was that your last one on that?
5 MR. BARR: I got a few more. We're
6 moving.
7 MS. GASTWIRTH: I'm going to have a
8 standing objection on this. There's
9 nothing relevant to this complaint or
10 action relating to Park Place since it
11 occurred two and half years, two years
12 after.
13 The sole count in this complaint
14 deals with the voiding of a construction
15 contract that was allegedly not approved
16 by federal authorities. I can't image
17 what the subsequent interest to Park
18 Place in April of 2000 has anything to do
19 with this Complaint.
20 I've made my point. Let's see
21 where it goes and we may shut that down
22 too.
23 Okay. Go ahead.
24 MR. BARR: Now that you wasted all
25 that time, we're done with the questions

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1 **Melius**
2 concerning Park Place.
3 MS. GASTWIRTH: Right. That's why
4 I asked you if you had any more.
5 MR. BARR: I had 25 pages, but you
6 just shut me down.
7 **Q. Prior to September of 1996, what**
8 **financial interests or interest did you and/or**
9 **any of your entities have in the Casino?**
10 A. Don't know.
11 MS. GASTWIRTH: The casino wasn't
12 built then, Russ.
13 Was there something in that
14 question I didn't understand?
15 MR. SEFF: Could you not interject
16 after every single question. It's
17 cluttering up the questions. It's not
18 appropriate.
19 MS. GASTWIRTH: You're wrong and
20 the record will show that.
21 I don't know what you're talking
22 about when you're talking about a casino
23 that wasn't built until April 1999.
24 **Q. Did you have any financial interest**
25 **prior to September of 1996 in the development**

1 **Melius**
2 **or construction of a casino in the territory**
3 **of Akwesasne?**
4 A. Don't recall.
5 **Q. After September of 1997, what**
6 **financial interest or interests did you or any**
7 **of your entities have in the development or**
8 **construction of the Casino?**
9 A. Don't recall.
10 **Q. After January of 1998, what**
11 **financial interest or interests did you or any**
12 **of your entities have in the development or**
13 **construction of the Casino?**
14 A. I don't recall.
15 **Q. After April of 1999, what financial**
16 **interest or interests did you or any of your**
17 **entities have in the Casino?**
18 A. Never had any.
19 **Q. Did there come a time when you**
20 **learned that the National Indian Gaming**
21 **Commission Authority, NIGC, would not approve**
22 **you as a manager of a casino on the Saint**
23 **Regis Mohawk tribe's reservation?**
24 A. Yes.
25 **Q. When did you first learn that the**

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1 **Melius**
2 **NIGC would not approve you?**
3 A. Don't know.
4 **Q. Do you know how you first learned**
5 **the NIGC would not approve you?**
6 A. Don't recall.
7 MR. BARR: Mark that.
8 (Plaintiff's Exhibit 2, two-page
9 letter to Edward Smoke from NIGC dated
10 9/19/96, marked for identification, as of
11 this date, by the reporter.)
12 MS. GASTWIRTH: A description of it
13 for the inside of the transcript,
14 it's a September 1996 letter.
15 MR. BARR: From the NIGC to Ed
16 Smoke.
17 **Q. Have you ever seen that letter**
18 **before?**
19 A. I believe so.
20 **Q. Do you know when you first saw it?**
21 A. No.
22 **Q. Do you understand after seeing that**
23 **letter that the NIGC would not allow you to**
24 **have a financial interest in the management**
25 **contract for the Akwesasne Mohawk Casino?**

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1 **Melius**
2 **Melius will waive his interest in selection of**
3 **a contractor for the project, but neither he**
4 **nor his affiliates can waive the claims of**
5 **third party vendors who supplied improvements**
6 **for the project site, including the**
7 **fabrication of steel therefor."**
8 **Does that refresh your recollection**
9 **of seeing this memo concerning you and the**
10 **construction?**
11 A. No.
12 MR. BARR: Mark this.
13 (Plaintiff's Exhibit 4, Agreement
14 for Purchase of Partnership Interest
15 dated 9/24/97, marked for identification
16 as of this date, by the reporter.)
17 **Q. You've seen what Exhibit 4 is?**
18 A. I see a document.
19 **Q. Does it look familiar to you?**
20 A. No.
21 **Q. This is an Agreement for Purchase**
22 **of the Partnership Interest dated September**
23 **24, 1997. I think if you look at the last**
24 **page you executed it on behalf of yourself on**
25 **behalf of Native American Management**

1 **Melius**
2 A. Seems pretty apparent.
3 **Q. Did you understand after seeing**
4 **this letter that the NIGC would not allow you**
5 **to have any management responsibility for the**
6 **management contract for the Casino?**
7 A. Yes.
8 MR. BARR: Mark this.
9 (Plaintiff's Exhibit 3, two-page
10 memorandum dated 12/6/96, draft for
11 review, marked for identification, as of
12 this date, by the reporter.)
13 **Q. I'm showing you what's been marked**
14 **as Plaintiff's 3.**
15 **Is that your handwriting in the**
16 **upper righthand corner where it says "Saint**
17 **Regis contract?"**
18 A. Looks like it.
19 MS. GASTWIRTH: For the record, we
20 put in what it is.
21 **Q. Do you recall seeing this?**
22 A. No.
23 **Q. I direct you to the second page,**
24 **second to the last paragraph where it says**
25 **"construction issues." It refers to "Gary**

1 **Melius**
2 **Corporation?**
3 A. It appears that way.
4 **Q. Any recollection that you signed**
5 **this document?**
6 A. I know I signed a document. I
7 can't tell by the document you're giving me,
8 that's the document. In other words, I don't
9 remember the context or all the wording. I
10 can only assume that's the document, but I
11 have no way of knowing. I mean, to read this
12 it would take me hours. I have a learning
13 disability, so paper is very hard for me. I
14 only went to the eighth grade. So paper is
15 going to be very tough for me, remember.
16 **Q. If you go to paragraph 4 where it**
17 **says "purchase price," paragraph 4 which is on**
18 **page 3 --**
19 A. Yes.
20 **Q. -- you were to be paid \$4,990,000**
21 **for your interest in the Management Agreement?**
22 MS. BUDD: Objection.
23 MS. GASTWIRTH: Objection.
24 **Q. You were supposed to be paid**
25 **\$4,990,000. Out of that amount, do you know**

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1 Melius
2 how much has been paid?
3 A. I believe \$750,000.
4 Q. Gary, have you attempted to collect
5 the rest of the money owed?
6 A. Yes.
7 Q. What have you done to collect that?
8 A. Commence a litigation.
9 Q. When did you do that?
10 A. Don't know.
11 Q. Recently?
12 A. I don't know what "recent" means.
13 Q. Last year, within the last year?
14 A. I'm not sure. Not too long.
15 Q. What courthouse?
16 A. I believe it's Nassau, but you
17 would have to talk to my counsel.
18 Q. What's the status of that
19 litigation?
20 A. Don't know.
21 Q. Do you know the defendants in that
22 lawsuit?
23 A. Whoever owed the money I believe it
24 would be.
25 Q. Sorry?

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1 Melius
2 MS. GASTWIRTH: I'm not. I don't
3 even know it's against my client, but I
4 assume it is. If you make a request in
5 writing, we'll get them to you.
6 MR. BARR: Okay.
7 Mark this.
8 (Plaintiff's Exhibit 5 memorandum
9 to Ivan Kaufman and Gary Melius from
10 Walter Horn dated 10/21/97, marked for
11 identification, as of this date, by the
12 reporter.)
13 Q. I'm showing you what's been marked
14 as Plaintiff's 5, Gary.
15 Is that your handwriting and file
16 stamp?
17 A. Looks like it.
18 MR. BARR: Mark this.
19 (Plaintiff's Exhibit 6, fax cover
20 sheet and three-page letter to Gary
21 Melius from Edward R. Germano dated
22 11/11/97, marked for identification, as
23 of this date, by the reporter.)
24 Q. Is that your file stamp and
25 signature?

1 Melius
2 A. Whoever owed the money.
3 Q. Whoever owed the money?
4 A. Yes.
5 Q. You don't know the status of the
6 litigation?
7 A. No.
8 Q. Did you actually sue Mr. Kaufman
9 for that money?
10 A. I don't know who we sued. Whoever
11 were the parties that my counsel believed was
12 a case against we sued.
13 MR. BARR: I don't believe
14 we've ever received copies of that
15 lawsuit. I'll call for the production.
16 MS. BUDD: I'm not the attorney, so
17 I don't have them either.
18 MS. GASTWIRTH: I don't have them,
19 but I don't think you ever asked for them
20 If you want to make a request, why
21 don't you send me a letter. I'm sure
22 they'll be other documents you want
23 throughout the litigation.
24 MR. BARR: You're counsel for that
25 litigation.

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1 Melius
2 A. It appears to be.
3 Q. Any reason to believe that it would
4 not be?
5 A. No.
6 Q. Is that how you file documents on
7 behalf of your various companies?
8 A. Yes.
9 Q. What company would you be filing
10 that for, as a matter of fact?
11 A. Don't know.
12 Q. Would it be filed for you
13 individually, perhaps?
14 A. No.
15 Q. None of these are personal files,
16 these would be company files?
17 A. Yes.
18 Q. So you have the Saint Regis manager
19 file; that goes into what file and what
20 company?
21 MS. BUDD: Objection.
22 You haven't established that there
23 is a Saint Regis Management file.
24 MR. SEFF: That's what it says on
25 there.

<p style="text-align: right;">Page 58</p> <p>1 Melius</p> <p>2 Q. It says "file Saint Regis Manager."</p> <p>3 You tell me.</p> <p>4 MS. BUDD: Establish a foundation</p> <p>5 as to where this would be filed.</p> <p>6 Q. You have a file stamp that says</p> <p>7 "file."</p> <p>8 That looks like your file stamp?</p> <p>9 A. Correct.</p> <p>10 Q. As a matter of fact, it most likely</p> <p>11 is your file stamp, a copy of it?</p> <p>12 A. I don't know. That's what you're</p> <p>13 saying, but I said looks like it.</p> <p>14 Q. And you wrote "Saint Regis;" is</p> <p>15 that correct?</p> <p>16 A. Yes.</p> <p>17 Q. Below that you wrote?</p> <p>18 A. I can't read it -- monograms.</p> <p>19 I don't know what it says. I'm not</p> <p>20 sure.</p> <p>21 Q. Fair to say it says "manager" on</p> <p>22 it?</p> <p>23 A. I don't know it's fair to say</p> <p>24 anything.</p> <p>25 Q. It's your handwriting though?</p>	<p style="text-align: right;">Page 59</p> <p>1 Melius</p> <p>2 A. I have a problem with my own</p> <p>3 handwriting.</p> <p>4 Q. You have a problem with reading</p> <p>5 your own handwriting?</p> <p>6 A. Yes.</p> <p>7 Q. Take a look at the document and</p> <p>8 tell me if you recall ever seeing this</p> <p>9 document?</p> <p>10 A. Don't recall.</p> <p>11 Q. It's a fax. The first page is a</p> <p>12 fax cover sheet and it says "To: Name: Gary</p> <p>13 Melius."</p> <p>14 The very first page is a fax cover</p> <p>15 sheet?</p> <p>16 A. That's what this says, yes.</p> <p>17 Q. What was your fax number?</p> <p>18 Is that the correct fax number, 516</p> <p>19 741-8040?</p> <p>20 A. I don't recall.</p> <p>21 Q. Is that your fax number now?</p> <p>22 A. I don't believe so.</p> <p>23 Q. You just don't know if that's your</p> <p>24 fax number?</p> <p>25 A. It's not now. I know that. I</p>
<p style="text-align: right;">Page 60</p> <p>1 Melius</p> <p>2 don't believe it's mine.</p> <p>3 Q. You don't believe that's your fax</p> <p>4 number?</p> <p>5 A. No.</p> <p>6 Q. This document was faxed to that</p> <p>7 number.</p> <p>8 A. Okay.</p> <p>9 Q. And it looks like you stamped it</p> <p>10 "file Saint Regis manager," but you don't have</p> <p>11 any recollection as to whether or not that was</p> <p>12 your fax number in 1997?</p> <p>13 MS. GASTWIRTH: Objection.</p> <p>14 A. No, I have no recollection of '97.</p> <p>15 Q. Any reason to believe that that</p> <p>16 would not be your fax number in 1997?</p> <p>17 A. I have no reason to believe it</p> <p>18 would or wouldn't be.</p> <p>19 Q. It says "Dear Gary, this letter is</p> <p>20 in response to our meeting at Arbor in</p> <p>21 Uniondale, New York last Friday to discuss the</p> <p>22 proposed management agreement for a casino on</p> <p>23 the Saint Regis Mohawk reservation."</p> <p>24 Does that refresh your recollection</p> <p>25 that you had a meeting on or about November</p>	<p style="text-align: right;">Page 61</p> <p>1 Melius</p> <p>2 11, 1997 to discuss that exact issue?</p> <p>3 A. No.</p> <p>4 Q. Does this document refresh your</p> <p>5 recollection that in November of 1997 you were</p> <p>6 involved in efforts to hire a general manager</p> <p>7 for the Casino?</p> <p>8 A. No.</p> <p>9 THE WITNESS: Can I talk to you?</p> <p>10 (Witness confers with counsel.)</p> <p>11 MR. BARR: Mark this.</p> <p>12 (Plaintiff's Exhibit 7, fax cover</p> <p>13 sheet and two-page memorandum to Gary</p> <p>14 melius from Richard E. Starr, dated</p> <p>15 1/9/98, marked for identification, as of</p> <p>16 this date, by the recorder.).</p> <p>17 Q. Mr. Melius, Exhibit No. 7, is that</p> <p>18 your file stamp and handwriting?</p> <p>19 A. Appears to be.</p> <p>20 Q. The January 9, 1998 letter is</p> <p>21 addressed to you from Richard Starr; is that</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. Do you know who Richard Starr is?</p> <p>25 A. Yes.</p>

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1 Melius
2 **Q. Who is he?**
3 A. I don't know. He works for this
4 company or he owns it or something.
5 **Q. Do you know why he was writing to**
6 **you in January of 1998 concerning a gaming**
7 **assessment project for the Casino?**
8 A. I don't recall.
9 **Q. This file just went into the Saint**
10 **Regis file; am I correct in stating that?**
11 A. That's what it says on here.
12 **Q. It doesn't say Saint Regis anything**
13 **else. It just says Saint Regis file, fax**
14 **number 516 741-8040.**
15 **Does that help you refresh your**
16 **recollection that that was your fax number?**
17 A. I don't recall.
18 **Q. Could would you turn the page,**
19 **Mr. Melius, first paragraph:**
20 **"This is to confirm our recent**
21 **conversation regarding the subject project.**
22 **As discussed, the current assignment would**
23 **include."**
24 **Do you recall your conversation**
25 **regarding this gaming assessment project?**

1 Melius
2 A. No.
3 **Q. Is that your handwriting on that**
4 **page?**
5 A. I don't know.
6 **Q. It says "video slots-" and it says**
7 **"or slots."**
8 **Does that look like your**
9 **handwriting?**
10 A. Could be.
11 **Q. Is it most likely your comments?**
12 A. Don't know.
13 **Q. You have no recollection of having**
14 **a conversation with Mr. Starr in 1998**
15 **concerning the casino gaming assessment?**
16 A. I don't recall the conversation.
17 Did I have a conversation ever with
18 him, yes.
19 **Q. Do you recall if you contacted**
20 **Mr. Starr in response to this fax?**
21 A. No, I don't recall.
22 **Q. Do you recall what the substance of**
23 **your conversations with Mr. Starr would have**
24 **been in 1998 concerning the gaming assessment?**
25 A. No.

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1 Melius
2 MR. BARR: Mark this.
3 (Plaintiff's Exhibit 8, fax cover
4 sheet and three-page memo to Ivan Kaufman
5 from Richard E. Starr dated 1/12/98,
6 marked for identification, as of this
7 date, by the reporter.)
8 **Q. Is that your file stamp and**
9 **handwriting on that document?**
10 A. Appears to be.
11 **Q. It appears to be that you circled**
12 **ERA.**
13 **Does that mean that you had a Saint**
14 **Regis ERA file?**
15 A. It would be appropriate.
16 **Q. Fax is to Ivan Kaufman from**
17 **Mr. Starr and it's dated January 12, 1998; is**
18 **that correct?**
19 A. I'm sorry.
20 What was that again?
21 **Q. The fax is to Ivan Kaufman?**
22 A. Oh, okay. Yes.
23 **Q. From Mr. Starr dated January 12,**
24 **1998?**
25 A. Yes.

1 Melius
2 **Q. Fax number 516 741-8040?**
3 A. Yes.
4 **Q. Again, I'm trying to help refresh**
5 **your memory.**
6 **This is a document you stamped**
7 **file, put in your file.**
8 **That must have been your fax number**
9 **at that time?**
10 A. It looks pretty convincing.
11 **Q. Appears to be.**
12 **Did you share a fax number with**
13 **Mr. Kaufman around that time?**
14 A. No.
15 **Q. So it's your fax?**
16 A. It appears to be. It appears to
17 be. If I was a betting man, I guess it is.
18 **Q. Do you know why Mr. Starr was**
19 **writing to you about a gaming assessment**
20 **project in January of 1998?**
21 A. I don't recall.
22 **Q. It looks as though if you compare**
23 **that Exhibit 8 with Exhibit 7, that Mr. Starr**
24 **incorporated some of the handwriting notes.**
25 **Could you take a look at that and**

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Page 67

1 **Melius**
2 **tell me if you could agree with that?**
3 MS. GASTWIRTH: The question is
4 whether he knows?
5 I'm sorry.
6 **Q. Does it appear that Mr. Starr**
7 **incorporated some of your comments from the**
8 **January 9 draft, which is marked as Exhibit 7,**
9 **to the exhibit marked as Exhibit 8?**
10 MS. GASTWIRTH: Objection.
11 Go ahead and answer it.
12 A. I have no idea. I don't know if
13 they're my comments and, you know, I'm not
14 quite sure what that means, the legal stuff.
15 I told you, I'm very bad on paper.
16 **Q. You just don't know whether or not**
17 **that's your handwriting?**
18 **It appears to be your handwriting**
19 **though?**
20 A. It could be. I mean, it's sloppy.
21 I write sloppy. It could be. It could be
22 somebody else's sloppy handwriting.
23 **Q. So on Plaintiff's 7 under "video**
24 **slots" it says I believe above that "or slots"**
25 **where it says "an assessment." So it reads**

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1 **Melius**
2 MS. GASTWIRTH: Just so we won't
3 take up much of the record, we have a
4 standing objection.
5 Go ahead and take your deposition.
6 We have a standing objection to
7 issues that don't relate to the
8 construction contract.
9 We believe they're outside the
10 scope of the Complaint and they're also
11 barred by various doctrines, but go right
12 ahead.
13 **Q. Is that your file stamp and**
14 **handwriting?**
15 A. It appears to be.
16 **Q. That's Exhibit 9?**
17 A. Number 9.
18 MR. SEFF: Off the record.
19 (Discussion off the record.)
20 **Q. It's a fax to you, Mr. Melius?**
21 A. Yes.
22 **Q. At your fax number?**
23 A. Yes, apparent fax number.
24 **Q. Again, it went to your Saint Regis**
25 **ERA file it appears to be?**

1 **Melius**
2 **like this: "An assessment of the implications**
3 **of the addition of video slots to the gaming**
4 **program;" is that correct?**
5 A. Correct.
6 MS. GASTWIRTH: That's on
7 Plaintiff's Exhibit 7.
8 MR. BARR: That's on Exhibit 7.
9 **Q. On Exhibit 8 it says "An assessment**
10 **of the implications of the addition of video**
11 **or regular slots to the gaming program."**
12 **Would that have been your comment**
13 **"video or regular slots?"**
14 A. I didn't say they were my comments.
15 It appears to be a change, but I don't know
16 that they're mine.
17 **Q. Do have any idea why Mr. Starr**
18 **would be faxing Mr. Kaufman at your fax**
19 **number?**
20 A. No.
21 MR. BARR: Mark this.
22 (Plaintiff's Exhibit 9, fax to
23 Gary Melius from Zach Van Buren dated
24 1/15/98, marked for identification, as of
25 this date, by the reporter.)

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1 **Melius**
2 A. Yes.
3 **Q. Is that your handwriting in the**
4 **circle?**
5 A. Could be.
6 **Q. "25 percent to State for slots;"**
7 **does that make sense?**
8 A. It could make sense. I don't know
9 if that's what it says.
10 **Q. Do you recall seeing this before?**
11 A. No.
12 **Q. Having that stamp and your**
13 **handwriting on it doesn't refresh your**
14 **recollection of seeing that before?**
15 A. No.
16 **Q. Did you provide anything to ERA in**
17 **response to this fax?**
18 A. No, I have no idea.
19 **Q. Did you contact Mr. Van Buren with**
20 **any questions?**
21 A. I don't remember that name.
22 **Q. Did you ever deal with ERA before?**
23 A. Before what?
24 **Q. Before January 15, 1998.**
25 A. I have no idea.

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Page 71

1 Melius
2 **Q. Do you know who ERA is or what kind**
3 **of company it is?**
4 A. An economic research company.
5 **Q. Other than reading it from the**
6 **exhibit, do you know anything independent**
7 **about that company?**
8 A. I don't recall. It's so long ago.
9 **Q. Why don't you take a look a minute**
10 **at the content of this letter. Take a minute.**
11 **Read it quick and tell me if it refreshes your**
12 **recollection as to why you were involved with**
13 **analyzing the future market for the project**
14 **around the time of the fax, January 15, 1998.**
15 A. Don't recall.
16 MR. BARR: Mark this.
17 (Plaintiff's Exhibit 10, fax cover
18 sheet with two newspaper articles, marked
19 for identification, as of this date, by
20 the reporter.)
21 **Q. Mr. Melius, have you seen that**
22 **before?**
23 A. Don't recall.
24 **Q. Is that your file stamp and**
25 **handwriting?**

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Page 73

1 Melius
2 years ago, seven years ago. It was a piece of
3 paper I saw.
4 **Q. It says down at the bottom "Saint**
5 **Regis slots," would that be something that you**
6 **would add to a document that you receive,**
7 **Mr. Melius?**
8 A. Could be.
9 **Q. Did you have a Saint Regis slots**
10 **file?**
11 A. Don't know.
12 **Q. Does it look like you had one after**
13 **looking at this?**
14 A. It looks like what it says.
15 **Q. Any reason why Mr. Horn in July of**
16 **1998 would be faxing this article to you?**
17 A. Ask Mr. Horn.
18 **Q. Who is Mr. Horn?**
19 A. I'm saying you would have to ask
20 Mr. Horn I'm assuming, not me.
21 **Q. It's fair to say you probably did**
22 **maintain a Saint Regis slots file, correct?**
23 A. Not necessarily.
24 **Q. Well, you maintained a Saint Regis**
25 **file?**

1 Melius
2 A. Looks, could be.
3 **Q. It appears to be?**
4 A. Could be. Could be is better.
5 **Q. Could be is better?**
6 A. I think I'll use "could be" from
7 now on.
8 **Q. That is your file stamp?**
9 A. I don't know. There may be more
10 than one of them, I believe.
11 **Q. There's a fax cover sheet from**
12 **Walter Horn to Gary Melius dated 7/21/98 in**
13 **the center of that Plaintiff's 10; is that**
14 **correct?**
15 A. Okay, yes.
16 **Q. The document appears to be faxed to**
17 **your number at 741-8040.**
18 A. It appears this is a document. I
19 don't know if it was put together. I don't
20 know what it is.
21 **Q. What do you mean?**
22 A. I don't know. Maybe you guys glued
23 a piece to this and put it on. I don't know
24 where it came from. I don't know. I have no
25 idea who does what. I can't remember six

1 Melius
2 A. I had files on Saint Regis.
3 **Q. You probably had a subfile that**
4 **says "slots?"**
5 A. If you say so.
6 I don't know. If you say so.
7 **Q. I'm just asking you a question**
8 **about your filing system.**
9 A. I don't know.
10 MR. BARR: Mark this.
11 (Plaintiff's Exhibit 11, two-page
12 memorandum to File from Walter Horn dated
13 7/21/98, marked for identification, as of
14 this date, by the reporter.)
15 **Q. Mr. Melius, I'm showing you what's**
16 **been marked as Exhibit 11.**
17 **Is that your file stamp and**
18 **handwriting on the top?**
19 A. Could be.
20 **Q. There's also a fax.**
21 MS. GASTWIRTH: Hang on one second.
22 I'm sorry. Okay.
23 **Q. Have you ever seen this before?**
24 A. Don't recall.
25 **Q. You want to take a look at it, take**

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1 Melius
2 a quick look and tell me if that helps refresh
3 your recollection.
4 A. No.
5 Q. Do you know why Mr. Walter Horn
6 from Arbor Mortgage, LLC would be faxing you
7 information concerning a meeting about the
8 Casino in July of 1998?
9 A. No.
10 Q. Did you ever correspond or talk to
11 Mr. Horn about this topic on or around that
12 time?
13 A. I have no idea.
14 Q. It looks like here, Mr. Melius,
15 that you maintain a Saint Regis contract file;
16 does that make sense?
17 A. Could be.
18 Q. You don't have any reason to
19 believe that that file stamp with your
20 handwriting would be a forgery, do you?
21 A. No.
22 Q. Most likely your handwriting?
23 A. I can't say that. Could be.
24 Q. Barring the fact that someone else
25 created this document, that would be your

1 Melius
2 handwriting?
3 A. I don't know. I don't even know if
4 this document is what it is. I don't have no
5 idea. I don't recall it. I don't recall the
6 document. I don't recall stamping it. I
7 don't recall seeing it.
8 Q. I understand that.
9 What I'm asking is, you have no
10 reason to believe that that would not be your
11 file stamp and your handwriting on that
12 document?
13 A. At this time, no.
14 MR. BARR: Mark this.
15 (Plaintiff's Exhibit 12, fax cover
16 sheet to Gary Melius from David A.
17 Freedman and two-page letter to Ivan
18 Kaufman from Jack Deremer, marked for
19 identification, as of this date, by the
20 reporter.)
21 Q. Have you ever seen that before,
22 Plaintiff's 12?
23 A. No idea.
24 Q. There's a fax cover sheet to you
25 Gary Melius?

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1 Melius
2 A. That's what it says.
3 Q. From David Freedman?
4 A. Yes.
5 Q. Dated October 7, 1998?
6 A. Yes.
7 MS. GASTWIRTH: Can I take a moment
8 to look at it.
9 Q. The "re" is Saint Regis Casino/VLC;
10 is that correct?
11 A. Yes, Saint Regis Casino something.
12 I don't know what that last one says, Vic. I
13 don't know.
14 Q. Turn to the next page. You can see
15 it says VLC on the top.
16 A. Oh, VLC, okay.
17 Q. Have you ever seen this document
18 before?
19 A. Don't recall.
20 Q. Do you have any idea why this
21 document would have been faxed to you?
22 A. No.
23 Q. Do you know what this document is
24 about?
25 A. No.

1 Melius
2 Q. On the "re" line second page of
3 this exhibit it says "preliminary letter of
4 interest - project financing for the
5 development of the Akwesasne Mohawk Casino by
6 the Saint Regis Mohawk Tribe and President
7 R.C. - Saint Regis Management Company."
8 A. Okay.
9 Q. Does that help refresh your
10 recollection what this was?
11 A. No, I don't remember the letter.
12 Q. Is it fair to say it's concerning
13 the financing of the Casino?
14 MS. GASTWIRTH: Objection.
15 A. Fair to say.
16 MS. GASTWIRTH: I think he just
17 answered.
18 I just want to make sure I
19 understand. When you ask him what the
20 document says, it's the document. He's
21 not testifying of his own independent
22 knowledge. I think he prefaced that he
23 has no independent recollection of the
24 document.
25 Q. Do you know who Jack Deremer is?

20 (Pages 74 to 77)

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1 **Melius**
2 A. No, I don't remember. I don't
3 remember that name ever.
4 **Q. You don't have a recollection of**
5 **having conversations with him --**
6 A. No.
7 **Q. -- concerning the Casino's**
8 **financing?**
9 A. Don't remember that name.
10 **Q. How about David Freedman?**
11 A. I remember that name.
12 **Q. What do you remember about**
13 **Mr. Freedman?**
14 A. I remember I never met him. I
15 think I had a conversation with him. I don't
16 remember the conversation.
17 **Q. Was it concerning the financing of**
18 **the Casino?**
19 A. Don't recall.
20 **Q. Mr. Freedman works for PFI Capital**
21 **Partners?**
22 A. I don't know.
23 **Q. Any idea why the letter is**
24 **addressed to Mr. Ivan Kaufman, principal**
25 **officer, President R.C. addressed to One Old**

1 **Melius**
2 **Country Road?**
3 A. No.
4 **Q. Is that where your office was at**
5 **that time or was that Mr. Kaufman's office?**
6 A. I had an office there.
7 **Q. You had an office there?**
8 A. Yes.
9 **Q. With Ivan sharing an office?**
10 A. Never.
11 **Q. Same building?**
12 A. I think there was a time they
13 rented space downstairs, 20,000 feet or so, I
14 think.
15 **Q. Do you know when?**
16 A. No.
17 **Q. It's addressed to Mr. Kaufman at**
18 **One Old Country Road, but it's faxed to you;**
19 **is that fair to say?**
20 A. Anything is fair to say. I don't
21 know.
22 THE WITNESS: I got to eat.
23 MS. GASTWIRTH: It's coming at
24 12:30.
25 MR. BARR: Mark this.

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1 **Melius**
2 (Plaintiff's Exhibit 13, fax cover
3 sheet to Gary Melius from David Freedman
4 followed by a two-page letter dated
5 10/8/98, marked for identification, as of
6 this date, by the reporter.)
7 **Q. Do you recall seeing this letter**
8 **before?**
9 A. No.
10 **Q. That's Plaintiff's 13; is that**
11 **what's in front you?**
12 A. Yes.
13 **Q. Is that your file stamp and**
14 **handwriting?**
15 A. Could be.
16 **Q. It says "Saint Regis**
17 **Miller & Schroeder;" is that fair?**
18 A. It appears to, yes.
19 **Q. Did you maintain a Saint Regis and**
20 **Miller & Schroeder file?**
21 A. Don't know.
22 **Q. What did you have to do with the**
23 **Miller & Schroeder loan on or about October 8,**
24 **1998?**
25 A. I don't remember anything on the

1 **Melius**
2 date.
3 **Q. What was your involvement in the**
4 **Miller & Schroeder financing for the Casino?**
5 A. I'm trying to figure out how I
6 found out about it.
7 I don't know. I think I was
8 involved in introducing him to Ivan or his
9 entity.
10 **Q. Introducing who?**
11 A. To Ivan or his entity.
12 **Q. Miller & Schroeder to Ivan or his**
13 **entity?**
14 A. I don't know if it was Miller &
15 Schroeder or this company. Somebody came to
16 me. I don't recall the circumstances.
17 **Q. Do you recall seeing this fax from**
18 **Mr. Freedman dated October 8, 1998?**
19 A. No.
20 **Q. It certainly looks like,**
21 **Mr. Melius, from these documents that you were**
22 **involved in the negotiations of the Miller &**
23 **Schroeder loan; is that correct?**
24 A. I don't recall. Could have been.
25 **Q. Could have been?**

<p style="text-align: right;">Page 82</p> <p>1 Melius</p> <p>2 A. (Witness nods.)</p> <p>3 Q. If you were involved, what would</p> <p>4 you have been doing?</p> <p>5 A. I don't recall.</p> <p>6 Q. Negotiating the terms?</p> <p>7 A. Don't recall.</p> <p>8 Q. Who is Al Crary?</p> <p>9 A. A former New York State trooper</p> <p>10 captain, captain of New York State Police.</p> <p>11 Former captain of New York State Police.</p> <p>12 Q. Ever employed by you?</p> <p>13 A. I don't believe so.</p> <p>14 Q. Ever employed by any of your</p> <p>15 entities?</p> <p>16 A. I don't believe so.</p> <p>17 Q. Did you ever pay him?</p> <p>18 A. I don't believe so.</p> <p>19 Q. Did you ever hire him as a Casino</p> <p>20 security consultant?</p> <p>21 A. No.</p> <p>22 Q. How do you know him?</p> <p>23 A. I'm very involved with the police.</p> <p>24 Q. Very involved in the police?</p> <p>25 A. The police. I was Al D'Amato's</p>	<p style="text-align: right;">Page 83</p> <p>1 Melius</p> <p>2 liaison for police and fire. I know a lot of</p> <p>3 police departments.</p> <p>4 Q. Where did Al Crary, what precinct</p> <p>5 did he work in in New York City?</p> <p>6 A. No, he was upstate.</p> <p>7 Q. Where upstate?</p> <p>8 A. Around the casino.</p> <p>9 Q. You were involved in the police</p> <p>10 affairs with the New York State police up and</p> <p>11 around the Casino?</p> <p>12 A. No.</p> <p>13 Q. So how did you come to know</p> <p>14 Mr. Crary?</p> <p>15 A. Don't recall.</p> <p>16 MR. BARR: Mark this.</p> <p>17 (Plaintiff's Exhibit 14, memo to Al</p> <p>18 Crary from Gary Melius dated 10/2/98,</p> <p>19 marked for identification, as of this</p> <p>20 date, by the reporter.)</p> <p>21 Q. I'm showing you what's been marked</p> <p>22 as Exhibit 14.</p> <p>23 Is that your file stamp "Saint</p> <p>24 Regis contract?"</p> <p>25 A. Could be.</p>
<p style="text-align: right;">Page 84</p> <p>1 Melius</p> <p>2 MS. GASTWIRTH: Hang on a second.</p> <p>3 Q. Is that a letter from you?</p> <p>4 A. It doesn't look like a letter from</p> <p>5 anybody. There's nothing signed. I don't</p> <p>6 know what it is.</p> <p>7 Q. Is that your letterhead?</p> <p>8 A. It appears to be.</p> <p>9 Q. It says Gary Melius on the top?</p> <p>10 A. Yes, it does.</p> <p>11 Q. One Old Country Road, Suite 420?</p> <p>12 A. Yes.</p> <p>13 Q. Fax number 516 741-8040?</p> <p>14 A. That really clarifies the fax</p> <p>15 number.</p> <p>16 Q. That was your fax number?</p> <p>17 A. Yes, good thing for this.</p> <p>18 Q. Good thing for documents.</p> <p>19 The letter is dated October 21,</p> <p>20 1998?</p> <p>21 A. Yes.</p> <p>22 Q. It says "best regards, Gary</p> <p>23 Melius?"</p> <p>24 A. Yes.</p> <p>25 Q. Do you recall hiring Al Crary as a</p>	<p style="text-align: right;">Page 85</p> <p>1 Melius</p> <p>2 security consultant for the casino?</p> <p>3 A. No.</p> <p>4 Q. It says "I have been informed by</p> <p>5 Massena Management that upon opening of the</p> <p>6 Saint Regis Casino by either Ivan Kaufman or</p> <p>7 an affiliate of his, you will be hired as</p> <p>8 their security consultant at a salary of</p> <p>9 \$50,000 per year;" do you remember that?</p> <p>10 A. No.</p> <p>11 Q. It says "congratulations?"</p> <p>12 A. It says that.</p> <p>13 Q. Did he ever get hired by the</p> <p>14 casino?</p> <p>15 A. I don't know.</p> <p>16 Q. Did you ever have any</p> <p>17 communications with Mr. Crary concerning the</p> <p>18 Casino?</p> <p>19 A. Yes.</p> <p>20 Q. What were those communications?</p> <p>21 A. Don't recall.</p> <p>22 Q. Did he ever produce any documents</p> <p>23 for you to review concerning the Casino?</p> <p>24 A. Not that I know of.</p> <p>25 Q. You have no recollection of</p>

<p style="text-align: right;">Page 86</p> <p>1 Melius</p> <p>2 actually sending this letter and hiring</p> <p>3 Mr. Crary; is that correct?</p> <p>4 MS. GASTWIRTH: Objection.</p> <p>5 I don't think that's what the</p> <p>6 letter says. It says somebody else would</p> <p>7 hire him.</p> <p>8 A. Right. I never would hire and</p> <p>9 apparently this letter is an unsigned letter.</p> <p>10 I don't know what it is.</p> <p>11 Q. But it went into your Saint Regis</p> <p>12 file?</p> <p>13 A. I don't know.</p> <p>14 Q. It's stamped "file," your file</p> <p>15 stamp, and it says "Saint Regis contract,"</p> <p>16 right?</p> <p>17 A. That's what it says. I don't know</p> <p>18 if it went in there. I don't know if it came</p> <p>19 out of there. I don't know anything.</p> <p>20 Q. Do you know who Mr. Crary reported</p> <p>21 to?</p> <p>22 A. I guess the major.</p> <p>23 I don't know who he reported to.</p> <p>24 He was a captain. He reported to a</p> <p>25 major.</p>	<p style="text-align: right;">Page 87</p> <p>1 Melius</p> <p>2 Q. Did he ever report to you?</p> <p>3 A. No, why would he report to me?</p> <p>4 Q. Don't know, just asking.</p> <p>5 Why would you be writing to him?</p> <p>6 A. I don't know that I wrote to him.</p> <p>7 Q. You, at least, created a draft?</p> <p>8 A. I don't know. I don't know who did</p> <p>9 this.</p> <p>10 Q. Do you have any reason to believe</p> <p>11 that this would be a forged document?</p> <p>12 A. I have no reason to believe either</p> <p>13 way. I just -- it's an unsigned thing.</p> <p>14 Q. The initials down at the bottom</p> <p>15 "GM" refer to Gary Melius, fair?</p> <p>16 A. Yes.</p> <p>17 Q. How about "EMO?"</p> <p>18 A. How about it?</p> <p>19 Q. Who does that refer to?</p> <p>20 A. I don't know.</p> <p>21 Q. Did you have a secretary with the</p> <p>22 first initial beginning with an E?</p> <p>23 A. Yes.</p> <p>24 Q. And who was that?</p> <p>25 A. Elise.</p>
<p style="text-align: right;">Page 88</p> <p>1 Melius</p> <p>2 Q. Is she still working for you?</p> <p>3 A. Yes.</p> <p>4 Q. What's her last name?</p> <p>5 A. I think it's Olsen.</p> <p>6 Q. Olsen?</p> <p>7 A. Yes, with an O.</p> <p>8 Q. Do you know her middle name?</p> <p>9 A. No.</p> <p>10 Q. You don't think somebody forged</p> <p>11 this document, just created this document to</p> <p>12 make you look bad, do you?</p> <p>13 A. I have no idea.</p> <p>14 I mean, the whole case is bad. I</p> <p>15 don't know what anybody is doing here.</p> <p>16 Q. Do you have any suspicion this</p> <p>17 document in particular would have been created</p> <p>18 by somebody else other than you or your</p> <p>19 secretary?</p> <p>20 A. I have a suspicion of the whole</p> <p>21 case that I think you're trying to make a</p> <p>22 false case, so that's my suspicion.</p> <p>23 Q. Other than your general litigation</p> <p>24 strategy --</p> <p>25 A. I don't have a strategy.</p>	<p style="text-align: right;">Page 89</p> <p>1 Melius</p> <p>2 Q. -- do you have any particular</p> <p>3 reason to believe that this document would</p> <p>4 have been created by anybody else other than</p> <p>5 you and or your secretary Elise Olsen?</p> <p>6 MS. GASTWIRTH: Objection.</p> <p>7 A. I have no way of knowing. I have</p> <p>8 no way of knowing if somebody makes a bad</p> <p>9 document.</p> <p>10 MR. BARR: Mark this.</p> <p>11 (Plaintiff's Exhibit 15, fax dated</p> <p>12 10/23/98, eight-page Loan Placement</p> <p>13 Agreement, marked for identification, as</p> <p>14 of this date, by the reporter.)</p> <p>15 Q. You're looking at Exhibit 15,</p> <p>16 Mr. Melius?</p> <p>17 A. Yes.</p> <p>18 MS. GASTWIRTH: Let me just take</p> <p>19 a quick look.</p> <p>20 Q. Have you ever seen this letter</p> <p>21 before?</p> <p>22 A. I don't recall.</p> <p>23 Q. It's got your file stamp "file</p> <p>24 Saint Regis" on it?</p> <p>25 A. It could be.</p>

<p style="text-align: right;">Page 90</p> <p>1 Melius</p> <p>2 Q. With a circle for Miller &</p> <p>3 Schroeder?</p> <p>4 A. Yes.</p> <p>5 Q. It looks like it's Saint Regis</p> <p>6 Miller & Schroeder file; fair to say?</p> <p>7 A. Could be.</p> <p>8 Q. The date is October 23, 1998?</p> <p>9 A. Yes.</p> <p>10 Q. It's got your fax number on it, now</p> <p>11 that we've determined that that's your fax</p> <p>12 number, correct?</p> <p>13 A. Where is the fax number?</p> <p>14 I don't see it.</p> <p>15 Q. Via facsimile 516 741-8040?</p> <p>16 A. Yes, yes.</p> <p>17 Q. Is that your handwriting on this</p> <p>18 document?</p> <p>19 A. Don't know.</p> <p>20 Q. Are those your markups, if you just</p> <p>21 peruse through?</p> <p>22 A. I don't recall. I don't recall the</p> <p>23 document.</p> <p>24 Q. Does it look like your handwriting?</p> <p>25 A. It looks like sloppy handwriting.</p>	<p style="text-align: right;">Page 91</p> <p>1 Melius</p> <p>2 Could be my handwriting.</p> <p>3 Q. We know that it's your fax number.</p> <p>4 It was sent to your fax number, and it looks</p> <p>5 like it was also sent by Federal Express.</p> <p>6 MS. GASTWIRTH: Just for the</p> <p>7 record.</p> <p>8 These documents that you've been</p> <p>9 showing him, although you haven't</p> <p>10 denominated them on the record, the court</p> <p>11 reporter is taking down what the document</p> <p>12 is, is addressed to Mr. Ivan Kaufman. It</p> <p>13 may be faxed to Mr. Melius. I don't know</p> <p>14 what connection that is.</p> <p>15 So the record is clear, some of</p> <p>16 these documents that have been marked as</p> <p>17 exhibits are addressed to Ivan Kaufman at</p> <p>18 his address.</p> <p>19 MR. SEFF: At whose address?</p> <p>20 MS. GASTWIRTH: At Ivan Kaufman's</p> <p>21 address.</p> <p>22 MR. BARR: It says One Old Country</p> <p>23 Road.</p> <p>24 Are you testifying?</p> <p>25 MS. GASTWIRTH: I believe President</p>
<p style="text-align: right;">Page 92</p> <p>1 Melius</p> <p>2 was located there or Arbor at one point,</p> <p>3 but we'll check that out for you.</p> <p>4 MR. SEFF: We already checked that</p> <p>5 out. Thank you.</p> <p>6 Q. We've established that this</p> <p>7 document was faxed to you at 516 741-8040,</p> <p>8 correct?</p> <p>9 A. I don't say that. You're saying</p> <p>10 that. I don't know. I said I don't recall</p> <p>11 the document, but I can't tell you it was sent</p> <p>12 there.</p> <p>13 Q. You have no reason to believe that</p> <p>14 this would not have been sent to your office</p> <p>15 on October 23, 1998 to your fax number,</p> <p>16 correct?</p> <p>17 A. Just my general belief that I don't</p> <p>18 know if any of the documents are real or</p> <p>19 fakes. I don't know. I don't know what it</p> <p>20 is.</p> <p>21 Q. You have no recollection of being</p> <p>22 involved with the loan placement concerning</p> <p>23 the casino?</p> <p>24 A. I didn't say that.</p> <p>25 Q. If you were involved in the loan</p>	<p style="text-align: right;">Page 93</p> <p>1 Melius</p> <p>2 placement, then it wouldn't be so difficult to</p> <p>3 understand why you would be faxed a document</p> <p>4 concerning that loan placement by Miller &</p> <p>5 Schroeder, correct?</p> <p>6 A. That's correct.</p> <p>7 Q. So it's not unreasonable to</p> <p>8 conclude that if you were involved in a loan</p> <p>9 placement of the financing for the Casino that</p> <p>10 you would have received faxes such as this one</p> <p>11 dated October 23, 1998, correct?</p> <p>12 A. Conceivable.</p> <p>13 Q. What was your role in this loan</p> <p>14 placement?</p> <p>15 A. I don't recall.</p> <p>16 I mean, I know I made an</p> <p>17 introduction. I don't know if I -- I don't</p> <p>18 recall how involved I was as to negotiate, if</p> <p>19 I did or not.</p> <p>20 MS. GASTWIRTH: Why don't we take a</p> <p>21 two-minute break.</p> <p>22 Q. Mr. Melius, if you could just take</p> <p>23 a look at this document a little more closely</p> <p>24 now that we've established that you had some</p> <p>25 involvement in the placement of the loan on</p>

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Page 95

1 Melius
2 **the Casino; would it be fair to say?**
3 MS. BUDD: I'm going to object to
4 your rephrasing his testimony
5 inaccurately.
6 **Q. Is it fair to say that these would**
7 **be your comments in line with your involvement**
8 **on this financing?**
9 MS. GASTWIRTH: Objection.
10 MR. BARR: He can answer?
11 MS. GASTWIRTH: He can answer, if
12 he can answer.
13 A. Don't know.
14 **Q. For example, it says here**
15 **"borrower: The Saint Regis Mohawk Tribe, a**
16 **federally recognized Indian tribe pursuant to**
17 **the Treaty."**
18 A. Where does it say that?
19 **Q. Second page. It would be Bates**
20 **stamped ARC --**
21 THE WITNESS: Excuse me one
22 second. I just need two minutes. I got
23 a personal issue.
24 MS. GASTWIRTH: I don't know when
25 lunch is coming. If you want to take

1 Melius
2 a lunch break now, it's supposed to be
3 here at 12:30.
4 Do you want to start now and let
5 him make his phone call and break for
6 lunch and resume at 1:00?
7 MR. BARR: Off the record.
8 (Luncheon recess taken at
9 12:21 p.m.)
10 AFTERNOON SESSION
11 (Time noted: 1:01 p.m.)
12 GARY MELIUS, resumed and testified as
13 follows:
14 CONTINUED EXAMINATION
15 BY BARR:
16 **Q. Mr. Melius, we were trying to get**
17 **ourselves back into this. We're on the second**
18 **page of Plaintiff's 15 and it's marked**
19 **ARC 08058 at the bottom lower righthand**
20 **corner; do you see that?**
21 A. Yes.
22 **Q. I was reading to you under the line**
23 **"borrower" and there's some handwriting on the**
24 **side "Arbor and or Massena?"**
25 A. Yes.

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Page 97

1 Melius
2 **Q. Were those your comments for that**
3 **paragraph "borrower?"**
4 A. I don't recall.
5 **Q. How about the next paragraph it**
6 **says "manager, okay;" is that your**
7 **handwriting, your comment?**
8 A. Don't know.
9 **Q. Could it be?**
10 A. Could be.
11 **Q. More probable than not that that's**
12 **your handwriting?**
13 A. I don't know that.
14 **Q. All the way down the line here you**
15 **got "okay, Massena, okay, okay" when we get**
16 **down to estimated project cost; do you see**
17 **that?**
18 A. Yes.
19 **Q. You have an okay next to it?**
20 A. Yes.
21 **Q. None of this refreshes your**
22 **recollection that this is your handwriting?**
23 A. No.
24 **Q. You don't have reason to believe**
25 **that it's anybody else's handwriting, do you?**

1 Melius
2 A. I have no idea.
3 **Q. We're talking about a fax that was**
4 **faxed to you on October 23, 1998, correct?**
5 A. I don't know that.
6 **Q. Would you just peruse the next few**
7 **pages and tell me whether or not that helps**
8 **refresh your recollection as to whether or not**
9 **that is your handwriting?**
10 A. Could be. I don't recall the
11 document, so I can't recall if it's my
12 handwriting.
13 **Q. Same answer for all of the rest of**
14 **the pages?**
15 A. Yes, could be.
16 **Q. Could be?**
17 A. I'm not saying definitely not,
18 could be.
19 **Q. If we go to the 063 Bates stamp --**
20 **by the way, just so you know for the record,**
21 **these are Bates stamps made by Park Place from**
22 **documents supplied from your offices to Park**
23 **Place; did you know that?**
24 A. No.
25 **Q. So if you go to Bates stamp 063 in**

25 (Pages 94 to 97)

<p style="text-align: right;">Page 98</p> <p>1 Melius</p> <p>2 the middle of the page it says this is where</p> <p>3 notices go "if to Manager: President R.C. -</p> <p>4 St. Regis Management Company care of Massena</p> <p>5 Management, LLC;" what's the address there?</p> <p>6 A. 333 Earle Ovington Boulevard, room</p> <p>7 900.</p> <p>8 Q. It looks like that's the address of</p> <p>9 President R.C. on October 23, 1998; is it fair</p> <p>10 to say?</p> <p>11 A. Looks like it.</p> <p>12 Q. But that's not the same address</p> <p>13 that's listed on the front page of this fax</p> <p>14 Bates stamped 057, is it?</p> <p>15 A. No.</p> <p>16 Q. Is it fair to say that they did not</p> <p>17 have their offices at one Old Country Road on</p> <p>18 or about that date, October 23 1998?</p> <p>19 MS. GASTWIRTH: Objection.</p> <p>20 MS. BUDD: Objection.</p> <p>21 A. No, don't know that.</p> <p>22 MR. BARR: Mark this.</p> <p>23 (Plaintiff's Exhibit 16, fax cover</p> <p>24 sheet to Gary Melius from Dave Larson</p> <p>25 dated 11/5/98 followed by nine-page</p>	<p style="text-align: right;">Page 99</p> <p>1 Melius</p> <p>2 Loan Placement Agreement, marked for</p> <p>3 identification, as of this date, by the</p> <p>4 reporter.)</p> <p>5 Q. Take a look at Plaintiff's Exhibit</p> <p>6 16.</p> <p>7 Have you seen that document before?</p> <p>8 A. Don't recall.</p> <p>9 Q. Is that your file stamp?</p> <p>10 A. Could be.</p> <p>11 Q. At the bottom it says ARC O7976?</p> <p>12 A. Yes.</p> <p>13 Q. It says "Saint Regis Miller &</p> <p>14 Schroeder" upper righthand corner next to your</p> <p>15 file?</p> <p>16 A. Yes.</p> <p>17 Q. And this fax is to you?</p> <p>18 A. The sheet says so.</p> <p>19 Q. From Miller & Schroeder and the fax</p> <p>20 line up at the top says November 5, 1998?</p> <p>21 A. That says Miller and Schroeder,</p> <p>22 yes.</p> <p>23 Q. One of ten?</p> <p>24 A. Yes.</p> <p>25 MS. GASTWIRTH: For the record, the</p>
<p style="text-align: right;">Page 100</p> <p>1 Melius</p> <p>2 facsimile cover sheet says it's from</p> <p>3 B&L Financial.</p> <p>4 Q. And that's your fax number</p> <p>5 516 741-8040?</p> <p>6 A. Absolutely.</p> <p>7 Q. And it says "President R.C.-Saint</p> <p>8 Regis Management Company."</p> <p>9 You worked for President R.C.-Saint</p> <p>10 Regis Management Company in November 1998?</p> <p>11 A. I don't see where it says that.</p> <p>12 MS. BUDD: (Indicating).</p> <p>13 A. Oh, no. Never worked for them.</p> <p>14 Q. It says "attached is a revised loan</p> <p>15 placement agreement provided for your review."</p> <p>16 A. Okay.</p> <p>17 Q. Did you or did you not review this</p> <p>18 revised loan placement agreement?</p> <p>19 A. I don't recall.</p> <p>20 Q. Why don't you take a closer look at</p> <p>21 the document and tell me if there's anything</p> <p>22 in there that would help refresh your</p> <p>23 recollection that you would have reviewed a</p> <p>24 revised loan placement agreement?</p> <p>25 MS. GASTWIRTH: For the record, the</p>	<p style="text-align: right;">Page 101</p> <p>1 Melius</p> <p>2 document that's attached is a letter</p> <p>3 dated November 5, 1998 from Miller &</p> <p>4 Schroeder to Ivan Kaufman. The fax cover</p> <p>5 sheet, however, comes from B&L Financial</p> <p>6 and it goes to Gary Melius.</p> <p>7 Q. Mr. Melius, do you want to take a</p> <p>8 look at it?</p> <p>9 A. I looked. No.</p> <p>10 Q. It's your handwriting on this</p> <p>11 document?</p> <p>12 A. Could be.</p> <p>13 Q. Well, assuming that this fax went</p> <p>14 to you on November 5, 1998 to your fax number,</p> <p>15 would it be fair to conclude that you were</p> <p>16 involved in the review and negotiation of this</p> <p>17 loan document?</p> <p>18 MS. GASTWIRTH: Objection.</p> <p>19 MS. BUDD: Objection.</p> <p>20 A. No.</p> <p>21 Q. No?</p> <p>22 A. No, I don't know if that's fair.</p> <p>23 Maybe for you. I don't know. You have to</p> <p>24 tell me how you want to decide. I don't</p> <p>25 decide it from that.</p>

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1 Melius
2 **Q. Let's break this down, Mr. Melius.**
3 **This fax cover sheet is to you,**
4 **Gary Melius, correct?**
5 A. That paper says it to me.
6 **Q. It's got your file stamp saying**
7 **"Saint Regis Miller Schroeder?"**
8 A. Could be.
9 **Q. Could be?**
10 A. Could be a bad document. I don't
11 know.
12 **Q. Barring the fact that it's a bad**
13 **document, is it reasonable to conclude that**
14 **you were sent this document for your review?**
15 A. You could conclude it. I'm not
16 agreeing to it.
17 **Q. You got no reason to disagree with**
18 **that, do you?**
19 A. I would never disagree with you.
20 **Q. I'd like you to disagree with me if**
21 **you have reason for it. If you have no**
22 **reason --**
23 A. I don't know. I'm not disagreeing
24 with you.
25 **Q. Having determined that this fax**

1 Melius
2 sheet was sent to you and looking at this
3 handwriting, is it fair to conclude that this
4 would be your handwriting, these comments
5 along the margin of the pages of this
6 document?
7 MS. GASTWIRTH: Asked and answered.
8 A. I think you confused me again
9 because you say "concluded." I don't know that
10 we concluded that.
11 **Q. Let's break it down.**
12 **The fax cover sheet is addressed to**
13 **you, correct?**
14 A. Yes.
15 MS. BUDD: Asked and answered three
16 times.
17 MR. BARR: We know we've got some
18 difficulties here, so let's be fair.
19 Let's be fair guys.
20 **Q. Now, you've stated that it could be**
21 **your signature and your file stamp and having**
22 **stated those two basic concepts, is it fair --**
23 **just fair -- to conclude that the handwriting**
24 **on the margin is your handwriting on this**
25 **document?**

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1 Melius
2 A. I don't know.
3 **Q. Do you or do you not have a**
4 **recollection as to reviewing this loan**
5 **document?**
6 A. No recollection.
7 MS. GASTWIRTH: Objection.
8 **Q. Or being involved in any type of**
9 **negotiation concerning this finance package**
10 **for the Casino?**
11 A. I have a recollection.
12 MS. BUDD: Objection.
13 MS. GASTWIRTH: Objection.
14 **Q. What's that recollection?**
15 A. I was involved.
16 **Q. You were involved?**
17 A. I don't know what "involves" means,
18 but I was involved.
19 **Q. Let's talk about to what extent**
20 **were you involved in the review and**
21 **negotiations of this loan placement agreement.**
22 MS. BUDD: Objection.
23 MS. GASTWIRTH: Objection.
24 That's not his testimony.
25 MR. SEFF: He just said he was

1 Melius
2 involved.
3 MS. GASTWIRTH: He just said
4 in negotiating.
5 **Q. Were you involved in the review of**
6 **this loan placement?**
7 A. I don't recall.
8 **Q. Do you know what you did do with**
9 **regard to this loan placement agreement?**
10 A. No. I mean, I know I made an
11 introduction. That's the main thing. That's
12 what I would call "involve," you know. I
13 don't recall the rest. It's too long ago.
14 MR. BARR: Mark this.
15 (Plaintiff's Exhibit 17 fax cover
16 sheet to Gary Melius from David Larson,
17 dated 11/8/98, marked for identification,
18 as of this date, by the reporter.)
19 **Q. I'm showing you what's been marked**
20 **as Plaintiff's 17.**
21 **Have you ever seen that document?**
22 A. I don't recall.
23 **Q. I want you to take a little bit**
24 **more time before you say you don't recall just**
25 **so you've given yourself a fair review of it.**

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Melius

A. I would have to say blanketly that any document you put in front of me, there's no way for me to recall that specific document from six years ago. I only can go on good faith that you say this is a legitimate document. Myself, I don't know. I don't know what it is, who it is or where it came from.

Q. Well, in 1998, Mr. Melius, how many Native American casino projects were you involved in?

A. Don't recall.

Q. Is it fair to say one?

A. No.

Q. More than one?

A. Yes.

Q. So you recall that you were involved in more than one negotiation with Native American casino projects in 1998?

A. No, I didn't say that. I don't know about the time frame, but there were times when I was involved with more than one Native American casino deal.

Q. Well, take a look at this document, the document in front of you. You'll note

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Melius

Q. And you have a Saint Regis file?

A. Yes.

Q. And you have a Saint Regis Miller & Schroeder subfile?

A. Don't know.

Q. It would appear to be here that you have a Saint Regis Miller & Schroeder subfile?

A. If this is what I did, it would appear that way.

Q. And you've got a fax cover sheet to you, Gary Melius, President R.C.-Saint Regis Management Company with your fax number on it; is that correct?

MS. GASTWIRTH: That's what you're saying the document says.

Q. That's what the document says?

A. That's what this says.

MR. BARR: You have to understand we have a little trouble with recollection.

MS. GASTWIRTH: I understand.

Q. This is from David Larson?

A. Yes.

Q. Dated November 8, 1998?

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Melius

that it's got a Bates stamp ARC O7986, which came from your files, and it's a fax cover sheet to you; am I correct in stating that?

A. That's what this says.

MS. GASTWIRTH: Objection as coming from his files. That's your testimony; isn't it?

Do you want to ask him if it did?

Q. Do you have any recollection that this came from your files?

A. No.

Q. But it's got your file stamp on it?

A. Could be.

Q. And the file stamp is Saint Regis Miller & Schroeder?

A. The file stamp?

Q. The stamp is "file" and then the handwriting is "Saint Regis Miller & Schroeder?"

A. Yes.

Q. We've determined that you've used that similar type of file stamp that says "file," right?

A. Yes.

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Melius

A. Yes.

Q. Who is David Larson?

A. I don't know.

Q. It says here "related to our conversation this morning."

Any reason to disagree with that statement that you would have had a conversation with Mr. Larson in the morning of November 8, 1998?

A. Yes. One, I wouldn't remember what I did on November 8, 1998.

Two, I don't recall that name at all. So I don't know what this is.

Q. But you have no reason to disagree with this fax?

Let me take a step back.

I'm not asking you to tell me what you did on that day.

What I'm asking you is, do you have any reason to disagree with the truth or veracity of this fax cover sheet that says "related to our conversation this morning," and the truth or veracity would be you have no reason to disagree having a conversation with

28 (Pages 106 to 109)

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Page 111

1 Melius
2 **Mr. Larson on that day, the morning of**
3 **November 8, 1998?**
4 A. I don't recall any conversation.
5 **Q. Is this your handwriting on this**
6 **document?**
7 A. Could be.
8 **Q. So it says "please indicate the**
9 **anticipated configuration of the Akwesasne**
10 **Casino opening by completing the following."**
11 **It could be that you completed the**
12 **following?**
13 A. I don't know if I saw this
14 document, so I can't answer. I would only be
15 able to do that if we were in my office and I
16 pulled the original out of my office and I
17 could say to you I know. You don't want me to
18 say something I don't know.
19 **Q. Maybe we should talk about doing**
20 **that.**
21 A. That's fine.
22 MS. GASTWIRTH: I don't think so.
23 You have these documents. Let's
24 move forward.
25 A. I can't say. Maybe they altered

1 Melius
2 them to protect their client.
3 **Q. Your attorney?**
4 A. She's not my attorney.
5 **Q. Whose not your attorney?**
6 A. I'm saying there are other people
7 involved.
8 MS. GASTWIRTH: We got these from
9 Park Place. They say what they say. I
10 don't know what more you can ask the
11 witness about.
12 MR. BARR: They got his
13 handwriting.
14 MS. GASTWIRTH: I could appreciate
15 you trying to establish that. I don't
16 know what more you're going to gain out
17 of it.
18 **Q. Did you write down at the bottom of**
19 **the page "Caribbean stud;" is that your**
20 **handwriting, could be your handwriting?**
21 A. Could be, yes.
22 **Q. You don't recall?**
23 A. You don't want me to say if I don't
24 know, right?
25 You don't want me to do that?

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Page 113

1 Melius
2 **Q. What I expect you to do is tell the**
3 **truth. That's all I expect.**
4 A. I'm telling you the truth, no lies.
5 **Q. When you're confronted with a fax**
6 **that's addressed to you, your fax that has a**
7 **stamp on it that we believe is your stamp that**
8 **we developed during the course of the morning**
9 **that says "file" that relates to a**
10 **conversation you had with the gentleman on**
11 **that fax the day before, I don't think it's**
12 **unreasonable to ask you the next question and**
13 **that is if it's got your handwriting on it.**
14 **Maybe from all that that I just**
15 **explained, would it refresh your recollection**
16 **that this would be your handwriting?**
17 **It's not unreasonable to conclude**
18 **that would be your handwriting or hand marks**
19 **on this document?**
20 A. Not unreasonable, but I don't
21 recall.
22 MS. GASTWIRTH: I think that's
23 pretty much been the testimony of
24 the witnesses throughout this case, that
25 this stuff is so long ago.

1 Melius
2 He can only testify to what he
3 recalls.
4 **Q. Who is B&L Financial?**
5 A. I don't know.
6 **Q. You didn't introduce B&L Financial**
7 **to Mr. Kaufman?**
8 A. I don't know who they are. I mean,
9 I don't recall who they are, so I couldn't
10 answer you.
11 MR. BARR: Mark this.
12 (Plaintiff's Exhibit 18, fax cover
13 sheet to Gary Melius from David Larson
14 dated 11/10/98 followed by a ten-page
15 Revised Loan Placement Agreement Draft
16 Copy, marked for identification, as of
17 this date, by the reporter.)
18 **Q. Mr. Melius, what do you have in**
19 **front of you?**
20 **Do you have Plaintiff's Exhibit 18**
21 **in front of you?**
22 A. Yes, sir.
23 **Q. Have you ever seen that document**
24 **before?**
25 A. Don't know.

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1 Melius
2 **Q Is that your file stamp on the**
3 **upper righthand corner?**
4 A. Could be.
5 **Q. Is your fax number on that?**
6 A. I don't know. I don't see. Where?
7 Oh, yes.
8 **Q. It says "attached is the latest**
9 **revised draft copy of the loan placement**
10 **agreement through Miller & Schroeder**
11 **Financial" and the next paragraph "I received**
12 **responses to your most recent comments from**
13 **Steve Erickson at Miller & Schroeder this**
14 **morning."**
15 **Do you recall giving any comments**
16 **to anybody at Miller & Schroeder or B&L**
17 **concerning this revised loan placement**
18 **agreement?**
19 A. No.
20 **Q. Look through the margin on the**
21 **right side and go through the document and see**
22 **if that's your handwriting.**
23 MS. BUDD: Just for the record, the
24 fax cover sheet was also addressed to
25 Mr. Walter Horn. The draft copy on the

1 Melius
2 second page dated November 10, 1998 is
3 addressed to Ivan Kaufman.
4 MR. BARR: Right.
5 **Q. Are those your handwriting on the**
6 **right side?**
7 A. Could be.
8 **Q. Were you working with Mr. Horn or**
9 **Mr. Kaufman on the terms of the loan placement**
10 **agreement?**
11 A. I don't recall.
12 MR. BARR: Mark this.
13 (Plaintiff's Exhibit 19, fax cover
14 sheet to Gary Melius from David Larson
15 followed by ten-page Loan Placement
16 Agreement, marked for identification, as
17 of this date, by the reporter.)
18 **Q. Are you looking at Plaintiff's 19?**
19 A. Yes.
20 **Q. Do you recall that document?**
21 A. No.
22 **Q. It's to you, Gary Melius; is that**
23 **correct?**
24 MS. GASTWIRTH: Are you talking
25 about the first page, the cover sheet?

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1 Melius
2 MR. BARR: The cover sheet.
3 MR. BARR: Let's use the Bates
4 stamp, ARC O7998.
5 MS. GASTWIRTH: You're not talking
6 about the rest of the document, just the
7 cover sheet?
8 MR. BARR: The cover sheet and it
9 has ten pages included.
10 MS. GASTWIRTH: Well, the next page
11 has something else on it. Let him look
12 through the whole thing.
13 The question is, is it addressed to
14 you and I thought you were referring to
15 the cover sheet.
16 THE WITNESS: What's the question?
17 **Q. Was it addressed to you?**
18 A. The cover sheet?
19 **Q. Well, the document. It says "to**
20 **Gary Melius from Mr. Larson."**
21 A. No, the document is not to me.
22 **Q. But the cover sheet is?**
23 A. The cover sheet is.
24 **Q. It's got your fax number?**
25 A. Yes.

1 Melius
2 **Q. And it's got your file stamp "Saint**
3 **Regis Miller & Schroeder, correct?**
4 A. Could be.
5 **Q. Comments are, and I'll read them**
6 **for you, "Gary, attached is the latest draft**
7 **of the loan placement agreement provided for**
8 **your review. Also, I faxed a copy of same to**
9 **Walter Horn's office. Please call with any**
10 **comments or questions."**
11 **Does that refresh your recollection**
12 **that you were giving comments on this loan**
13 **placement agreement?**
14 A. No.
15 MS. BUDD: Objection.
16 **Q. No?**
17 A. No.
18 **Q. So none of this these documents**
19 **help refresh your recollection that you were**
20 **involved in the negotiation of this loan**
21 **placement agreement?**
22 MS. GASTWIRTH: Objection.
23 MS. BUDD: Objection.
24 A. No. I have bad memory problems.
25 **Q. And if you don't have a specific**

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1 **Melius**
2 **recollection of this document or the other**
3 **documents I've shown you, is it fair to**
4 **conclude that after looking at these documents**
5 **and assuming that they are not forged**
6 **documents that you were involved in the review**
7 **of the loan placement agreement?**
8 MS. GASTWIRTH: Objection.
9 A. I don't know. I don't know if I'm
10 qualified to make that opinion.
11 MR. BARR: Mark this.
12 (Plaintiff's Exhibit 20, memo to
13 Gary Melius from Walter Horn dated
14 12/29/98 followed by three-page Notice
15 and Acknowledgement of Pledge, marked for
16 identification, as of this date, by the
17 reporter.)
18 **Q. Do you recall receiving this**
19 **document from Mr. Horn?**
20 A. No.
21 **Q. This document is marked as**
22 **Plaintiff's 20 for identification purposes,**
23 **right?**
24 A. Yes.
25 **Q. Same question. That's your file**

1 **Melius**
2 **stamp?**
3 A. Same answer. Could be.
4 **Q. Could be?**
5 A. Could be.
6 **Q. Saint Regis Miller & Schroeder**
7 **file, correct?**
8 A. Yes.
9 **Q. Does it help refresh your**
10 **recollection at all concerning the Pledge**
11 **Agreement, Notice and Acknowledgement of**
12 **Pledge Agreement?**
13 A. No.
14 **Q. Do you know anything about the**
15 **Notice and Acknowledgement of Pledge Agreement**
16 **concerning the tribe?**
17 A. I don't know what that means even.
18 That's a technical term for me.
19 **Q. It says here at the end of his**
20 **paragraph "any comments?"**
21 **It's fair to conclude that if this**
22 **is not a forged document that he was asking**
23 **for your comments?**
24 A. It would appear that way.
25 **Q. Any reason why he'd be asking for**

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1 **Melius**
2 **your comments?**
3 A. I don't know why. He's a lawyer.
4 I don't know.
5 **Q. Assuming this is an authentic copy**
6 **of a fax from Walter to you, if he's a lawyer,**
7 **why would he be asking for comments on the**
8 **Notice and Acknowledgement of Pledge?**
9 MS. BUDD: Objection.
10 A. I think you have to ask him that.
11 **Q. Do you have any recollection of**
12 **discussing this document with Mr. Horn, the**
13 **Notice and Acknowledgement of Pledge**
14 **Agreement?**
15 A. No.
16 **Q. If he was to testify that he did**
17 **discuss this document with you, would you have**
18 **any reason to disagree with his testimony?**
19 A. No.
20 **Q. You wouldn't call him a liar if he**
21 **said he had discussed this document with you?**
22 A. No.
23 MR. BARR: Mark this.
24 (Plaintiff's Exhibit 21, four-page
25 letter to NIGC dated 2/18/98, marked for

1 **Melius**
2 identification, as of this date, by the
3 reporter.)
4 **Q. You're being shown what's marked as**
5 **Plaintiff's 21.**
6 MS. GASTWIRTH: Could I just take a
7 look at it?
8 MR. BARR: Sure.
9 MS. GASTWIRTH: Okay.
10 **Q. Did you ever see this document?**
11 MS. GASTWIRTH: Hand on one second.
12 Take a look at the document.
13 **Q. Is that your file stamp?**
14 A. Could be.
15 **Q. "Saint Regis" what's that**
16 **"license?"**
17 A. L-i-c-l -- I don't know. I'm not
18 sure.
19 **Q. Is one of your files a Saint Regis**
20 **license file?**
21 A. I don't recall.
22 **Q. The handwriting on the right side**
23 **says "why no quotation on soft cost;" is that**
24 **your handwriting?**
25 A. Could be.

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1 Melius
 2 MS. BUDD: Could I just take this
 3 call?
 4 MR. BARR: You want us to stop?
 5 MS. BUDD: Yes, just for a minute.
 6 (Recess taken.)
 7 **Q. We're looking at Plaintiff's 21**
 8 **down at the lower righthand corner on the**
 9 **first page, is that your handwriting?**
 10 A. Could be.
 11 **Q. Do you recall giving comments to**
 12 **this document?**
 13 A. I don't remember the document.
 14 **Q. How about on page 3, is that your**
 15 **handwriting?**
 16 A. Certainly could be.
 17 MR. BARR: Mark this.
 18 (Plaintiff's Exhibit 22, Memo
 19 to Ivan Kaufman, John Ferrucci and
 20 Gary Melius from Walter Horn dated
 21 3/15/99, marked for identification, as of
 22 this date, by the reporter.)
 23 **Q. Mr. Melius, showing you what's**
 24 **been, marked as Plaintiff's 22, do you recall**
 25 **receiving this memo?**

1 Melius
 2 A. No.
 3 MS. GASTWIRTH: One second. Let me
 4 just take a look.
 5 **Q. Do you know what the subject of**
 6 **this memo is?**
 7 A. Something to do with liquor.
 8 **Q. Concerning a meeting with the State**
 9 **Liquor Authority re the license and you were**
 10 **CC'd on this letter; is that correct?**
 11 The letter was to you, Mr. Kaufman
 12 and Mr. Ferrucci?
 13 A. That's what it says.
 14 **Q. From Mr. Horn?**
 15 A. Yes.
 16 **Q. That's Mr. Horn's initials on the**
 17 **side?**
 18 A. Don't know.
 19 **Q. Your testimony is you don't recall**
 20 **receiving this memo?**
 21 A. Correct.
 22 **Q. Did you have any role in obtaining**
 23 **a liquor license for the casino?**
 24 A. No.
 25 **Q. Any reason why you would be sent**

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1 Melius
 2 **this memo then?**
 3 A. Ask Walter Horn.
 4 **Q. So if he was to testify that you**
 5 **were involved in obtaining a liquor license**
 6 **for the casino, you wouldn't disagree with**
 7 **that testimony?**
 8 MS. BUDD: Objection.
 9 MS. GASTWIRTH: Objection.
 10 I don't think that's what the
 11 document says.
 12 A. I wouldn't.
 13 **Q. You wouldn't?**
 14 A. Yes.
 15 **Q. And you wouldn't because?**
 16 A. I don't recall it.
 17 MR. BARR: Mark this.
 18 (Plaintiff's Exhibit 23, fax cover
 19 sheet to Senator Alphonse D'Amato from
 20 Walter Horn dated 4/5/99 followed by note
 21 and Notice to On-Premises Licensees,
 22 marked for identification, as of this
 23 date, by the reporter.)
 24 **Q. You're being shown what's marked as**
 25 **Plaintiff's 23, Mr. Melius.**

1 Melius
 2 **Is that your file stamp on the**
 3 **righthand side in the middle?**
 4 A. Could be.
 5 **Q. Do you recall getting a copy of**
 6 **that fax from Mr. Horn to Mr. D'Amato?**
 7 A. No.
 8 MR. BARR: Mark this.
 9 (Plaintiff's Exhibit 24, five-page
 10 document titled "For Gary Eyes Only,"
 11 marked for identification, as of this
 12 date, by the reporter.)
 13 **Q. Showing you what's been marked**
 14 **Plaintiff's 24, do you recall seeing that**
 15 **memo?**
 16 A. No.
 17 **Q. The file staple on it, what does it**
 18 **say?**
 19 A. File stamp says "file."
 20 **Q. What does it say next to it?**
 21 A. "Saint Regis Al Crary."
 22 **Q. Is that your handwriting?**
 23 A. Could be.
 24 **Q. Do you maintain a file for Al**
 25 **Crary?**

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1 Melius
 2 A. Don't know.
 3 Q. It says "for Gary Eyes Only," is
 4 that referring to you?
 5 A. I don't know.
 6 Q. Did Mr. Crary work for you?
 7 A. No.
 8 Q. It says here on "3/23 up to
 9 reservation to casino site looking at security
 10 and murals - matter previously reported upon,"
 11 any recollection?
 12 A. No.
 13 Q. I want to give you some quotes and
 14 tell me if you have any recollection of this,
 15 if it helps you refresh your recollection.
 16 "I tried to speak up for John
 17 Ferrucci as you asked, but I don't find a very
 18 receptive audience - rumor around he won't be
 19 around long, but no rumors came to my ears
 20 about the other guy so that's still under
 21 wraps. Lots talk of getting rid of E. King.
 22 Boy, that was a bad choice."
 23 Do you recall ever reading a memo
 24 that had that in there?
 25 A. No.

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1 Melius
 2 protecting your interests;" do you know what
 3 he's referring to there?
 4 A. No.
 5 Q. How about "checked out security
 6 from a distance. With all the activity of
 7 people coming and going 24 hours a day I think
 8 you're out of the woods, so to speak, until
 9 after the opening."
 10 Do you know what he's referring to
 11 there?
 12 A. No.
 13 Q. No idea?
 14 A. No.
 15 Q. "As of Sunday those Canadians who
 16 wished to continue their play by trading U.S.
 17 for Canadian money left because you have no
 18 place to trade. These things will cost you
 19 revenue. I spoke to Terrance at check cashing
 20 booth. He's going to make sure he has enough
 21 cash on hand."
 22 Does that refresh your recollection
 23 that Mr. Crary was reporting to you on these
 24 issues?
 25 A. No.

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1 Melius
 2 Q. "As of Sunday everyone was still
 3 walking through the pits as there were no
 4 security ropes or chains. They also don't
 5 seem to have an emergency book with phone
 6 numbers, etc."
 7 Do you recall receiving that
 8 comment from Mr. Crary?
 9 A. No.
 10 Q. "You won't make a lot of money with
 11 a cap on your ATM machines of \$200."
 12 Do you recall reading that?
 13 A. No.
 14 Q. Are those your ATM machines at the
 15 casino?
 16 A. No.
 17 Q. Were they in 1999?
 18 A. No.
 19 Q. Never?
 20 A. Never.
 21 Q. Do you know why he would be saying
 22 you won't make a lot of money with a cap on
 23 your ATM machines of \$200?
 24 A. No.
 25 Q. What about "your friends are

1 Melius
 2 Q. At casino met Ferrucci and Matteo
 3 and both were more cordial, so I guess you
 4 must have said something."
 5 Does that refresh your
 6 recollection?
 7 A. No.
 8 Q. Did you ever say anything to
 9 Ferrucci or Matteo concerning the Casino?
 10 MS. GASTWIRTH: At any time or in
 11 relation to this?
 12 Q. At any time in relation to the
 13 Casino.
 14 MS. GASTWIRTH: Objection.
 15 MS. BUDD: Objection.
 16 MS. GASTWIRTH: Answer it, if you
 17 can.
 18 A. Matteo, I don't know who he I don't
 19 think.
 20 Q. This would be in 1999?
 21 A. I have no idea. It doesn't matter
 22 the time frame. I don't know who he is.
 23 Q. How about Ferrucci?
 24 A. Yeah.
 25 Q. Would you have discussed Casino

<p style="text-align: right;">Page 130</p> <p>1 Melius</p> <p>2 matters with Ferrucci in the springtime of</p> <p>3 1999?</p> <p>4 MS. GASTWIRTH: Objection.</p> <p>5 A. Don't know.</p> <p>6 Q. Take a look at the second page of</p> <p>7 this, "file Saint Regis Al Crary;" does that</p> <p>8 look like your handwriting?</p> <p>9 A. Yes.</p> <p>10 Q. Third page "Saint Regis Al Crary;"</p> <p>11 does that look like your handwriting?</p> <p>12 A. Yes.</p> <p>13 Q. Fourth page, I don't know whose</p> <p>14 handwriting that is.</p> <p>15 Fifth page "Saint Regis Al Crary;"</p> <p>16 is that your handwriting?</p> <p>17 A. Looks like it.</p> <p>18 MR. BARR: Mark this.</p> <p>19 (Plaintiff's Exhibit 25, fax cover</p> <p>20 sheet to Gary Melius and William</p> <p>21 Helmreich from Walter Horn dated 5/3/99,</p> <p>22 followed by five-page memo to John</p> <p>23 Ferrucci and Walter Horn from Rich Duda</p> <p>24 dated 4/30/99, marked for identification,</p> <p>25 as of this date, by the reporter.)</p>	<p style="text-align: right;">Page 131</p> <p>1 Melius</p> <p>2 Q. Showing you what's been marked as</p> <p>3 Plaintiff's 25, do you have any recollection</p> <p>4 of seeing that document?</p> <p>5 A. No.</p> <p>6 Q. Do you want to take a look at it?</p> <p>7 A. I did.</p> <p>8 Q. Do you know what it concerns?</p> <p>9 A. Marketing activity.</p> <p>10 Q. The fax cover sheet is faxed to you</p> <p>11 and Mr. Helmreich?</p> <p>12 A. Yes.</p> <p>13 Q. Do you know who that is?</p> <p>14 A. A friend of Ivan's, I believe.</p> <p>15 Q. Do you know why he was being faxed</p> <p>16 a copy of this marketing activities update?</p> <p>17 A. No.</p> <p>18 Q. Do you know why you were being</p> <p>19 faxed a copy of that?</p> <p>20 A. No.</p> <p>21 Q. Did you have any input in the</p> <p>22 marketing of the casino in May of 1999?</p> <p>23 MS. GASTWIRTH: Objection.</p> <p>24 A. No.</p> <p>25 MR. BARR: Mark this.</p>
<p style="text-align: right;">Page 132</p> <p>1 Melius</p> <p>2 (Plaintiff's Exhibit 26, two-page</p> <p>3 memo to Gary Melius from Joan Cergol</p> <p>4 dated 5/12/99, marked for identification,</p> <p>5 as of this date, by the reporter.)</p> <p>6 Q. I'm showing you what's been marked</p> <p>7 as Plaintiff's 26.</p> <p>8 Have you ever seen that memo</p> <p>9 addressed to you?</p> <p>10 A. I don't recall.</p> <p>11 Q. Do you know who Joan Cergol is?</p> <p>12 A. Yes.</p> <p>13 Q. Who is she?</p> <p>14 A. A woman.</p> <p>15 Q. What does she do?</p> <p>16 A. She works for the Town of</p> <p>17 Huntington.</p> <p>18 Q. Any reason why she'd be sending you</p> <p>19 a fax concerning marketing support for the</p> <p>20 Akwesasne Mohawk Casino?</p> <p>21 A. Don't recall.</p> <p>22 Q. Could you please read that first</p> <p>23 paragraph?</p> <p>24 A. "As you have asked me to" --</p> <p>25 Q. Sorry. You could read it to</p>	<p style="text-align: right;">Page 133</p> <p>1 Melius</p> <p>2 yourself. I just want you to get familiar</p> <p>3 with the document in hopes that this refreshes</p> <p>4 your recollection.</p> <p>5 A. No. I said to you before, I could</p> <p>6 not in all candor say any document you show me</p> <p>7 that I could say I remember it because I don't</p> <p>8 know where it came from. I certainly don't</p> <p>9 remember an individual document.</p> <p>10 Q. But after seeing a document such as</p> <p>11 this, is it fair to say that you were seeking</p> <p>12 information concerning the marketing efforts</p> <p>13 of the Akwesasne Mohawk Casino from Joan</p> <p>14 Cergol?</p> <p>15 A. No.</p> <p>16 Q. Any reason why she would be sending</p> <p>17 you this memo then?</p> <p>18 A. Don't know. I don't recall.</p> <p>19 Q. Did you ever get back to her on</p> <p>20 these questions?</p> <p>21 A. No idea.</p> <p>22 Q. You don't deny receiving this</p> <p>23 document, you just don't have a specific</p> <p>24 recollection receiving this document; is that</p> <p>25 correct?</p>

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1 **Melius**
2 A. Correct, I don't know the document.
3 I can neither deny nor confirm it.
4 MR. BARR: Mark this.
5 (Plaintiff's Exhibit 27, fax cover
6 sheet to Gary Melius from John Ferrucci,
7 dated 5/14/99 followed by two-page letter
8 to Frank Vinciarello from John Ferrucci
9 date 5/14/99, marked for identification,
10 as of this date, by the reporter.)
11 **Q. I'm showing you what's been marked**
12 **as Plaintiff's 27.**
13 MS. GASTWIRTH: Can I take a look
14 at it?
15 **Q. Mr. Melius, have you ever seen this**
16 **document before?**
17 A. Don't recall.
18 **Q. Is that your file stamp Saint Regis**
19 **marking on it?**
20 A. Could be.
21 **Q. The fax is to you, is it not?**
22 A. This says to me.
23 **Q. From John Ferrucci?**
24 A. That's what it says.
25 **Q. And it's regarding the plane**

1 **Melius**
2 **program proposal?**
3 A. Correct.
4 **Q. Would you take a look at this?**
5 **Do you recall being involved in**
6 **this program?**
7 A. No.
8 **Q. Any reason why Mr. Ferrucci would**
9 **be sending this to you --**
10 A. Don't know.
11 **Q. -- and not to Mr. Horn?**
12 A. Don't know.
13 **Q. Not to Mr. Kaufman?**
14 A. Don't know that he didn't. I don't
15 know that this was even sent to me.
16 MS. GASTWIRTH: I think I need a
17 two-minute break.
18 **Q. Plaintiff's 27 you have in front of**
19 **you, Mr. Melius?**
20 A. Yes, sir.
21 **Q. Do you have any input regarding**
22 **this plane program?**
23 A. Not that I recall.
24 **Q. On the first page, does that look**
25 **like your handwriting?**

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1 **Melius**
2 A. Could be.
3 MR. BARR: Mark this.
4 (Plaintiff's Exhibit 28, fax cover
5 sheet to Gary Melius from John Ferrucci
6 dated 5/18/99 followed by letter to Nancy
7 Mullin from Richard Duda dated 5/18/99,
8 marked for identification, as of this
9 date, by the reporter.)
10 **Q I'm showing you what's been marked**
11 **as Plaintiff's 28.**
12 **Did you receive that fax?**
13 A. Don't recall.
14 **Q. The fax is to you, correct?**
15 A. This paper you gave plea says it's
16 to me.
17 **Q. It looks like it's got your file**
18 **stamp on it?**
19 A. Looks like it.
20 **Q. Does that look like your**
21 **handwriting as well?**
22 A. Looks like it.
23 **Q. Do you know why Mr. Ferrucci would**
24 **be sending you a memo regarding road signage?**
25 A. Don't recall.

1 Melius
2 **Q. Is that Mr. Ferrucci's signature?**
3 A. I don't know.
4 **Q. Did you respond to this memo in any**
5 **way?**
6 A. It doesn't even say Ferrucci on
7 this, how could it be his signature?
8 **Q. On the front page.**
9 A. There's no signature on the front
10 page.
11 **Q. Looks like his initials next to his**
12 **name John Ferrucci?**
13 A. Oh, I don't know that. I don't
14 know.
15 **Q. Do you recall whether or not you**
16 **responded to this memo in any way?**
17 A. I don't recall the memo.
18 **Q. Is there any reason why in May of**
19 **1999 Mr. Ferrucci would be sending you**
20 **information concerning road signage?**
21 A. I don't recall.
22 **Q. Do you know who Mr. Ferrucci was in**
23 **May of 1999?**
24 A. No.
25 **Q. What his position was at the**

<p style="text-align: right;">Page 138</p> <p>1 Melius</p> <p>2 Casino?</p> <p>3 A. When?</p> <p>4 Q. May of 1999?</p> <p>5 A. Don't know.</p> <p>6 MR. BARR: Mark this.</p> <p>7 (Plaintiff's Exhibit 29, fax cover</p> <p>8 sheet to Gary Melius from John Natalone</p> <p>9 dated 5/19/99, followed by three-page</p> <p>10 statement of operations, marked for</p> <p>11 identification, as of this date, by the</p> <p>12 reporter.)</p> <p>13 Q. I'm showing you what's been marked</p> <p>14 as Plaintiff's 29 for identification purposes.</p> <p>15 Did you ever see this document</p> <p>16 before?</p> <p>17 A. Don't recall.</p> <p>18 Q. It's a fax to you that's four pages</p> <p>19 and on the lower righthand corner it's</p> <p>20 ARC 04460 and 61, 62 and 63. It's a four-page</p> <p>21 fax.</p> <p>22 A This is only three pages.</p> <p>23 MS. GASTWIRTH: Let me see it for a</p> <p>24 second.</p> <p>25 MR. SEFF: Off the record.</p>	<p style="text-align: right;">Page 139</p> <p>1 Melius</p> <p>2 (Discussion off the record.)</p> <p>3 MR. SEFF: We've added page 04461</p> <p>4 to make it the complete four pages.</p> <p>5 MS. GASTWIRTH: It's Bates stamp</p> <p>6 range 04460, 61, 62 and 63. So Exhibit</p> <p>7 29 is now four pages.</p> <p>8 Q. Does that look like your file stamp</p> <p>9 on the first page of that fax cover sheet?</p> <p>10 A. Could be.</p> <p>11 Q. Does it look like your handwriting?</p> <p>12 A. Could be.</p> <p>13 Q. Have you ever seen this before?</p> <p>14 A. Don't recall.</p> <p>15 Q. Do you know who John Natalone is?</p> <p>16 A. Yes.</p> <p>17 Q. Who is he?</p> <p>18 When I say "do you know who he is"</p> <p>19 meaning what does he do for a living?</p> <p>20 Who does he work for?</p> <p>21 A. Okay. I don't know who he works</p> <p>22 for. He worked for some entity probably</p> <p>23 involved with Ivan Kaufman.</p> <p>24 Q. Arbor?</p> <p>25 A. I don't know which one.</p>
<p style="text-align: right;">Page 140</p> <p>1 Melius</p> <p>2 Q. Well, it's fair to say that in May</p> <p>3 of 1999 he was faxing you financials</p> <p>4 concerning the Casino; is that correct?</p> <p>5 A. I don't know. I can't answer that</p> <p>6 if I don't know if I saw this before.</p> <p>7 Q. Well, it's a fax to you.</p> <p>8 A. I know, but I don't know if it ever</p> <p>9 went to me.</p> <p>10 Again, not to be suspicious, but</p> <p>11 you said it was three sheets. It's four</p> <p>12 sheets. I don't know how things happen. It</p> <p>13 could be all bad. I don't know. I'm</p> <p>14 concerned.</p> <p>15 Q. You don't believe there's any</p> <p>16 reason why Mr. Natalone in May of 1999 would</p> <p>17 have been faxing to you information concerning</p> <p>18 the Casino?</p> <p>19 A. No, no. I don't recall that.</p> <p>20 Q. I didn't ask you whether or not you</p> <p>21 recall it.</p> <p>22 You testified you don't recall.</p> <p>23 I'm asking you, there would be no</p> <p>24 reason for him sending you a fax concerning</p> <p>25 Casino finances in May of 1999?</p>	<p style="text-align: right;">Page 141</p> <p>1 Melius</p> <p>2 MS. GASTWIRTH: Objection.</p> <p>3 A. My belief, yes.</p> <p>4 Q. So you're suggesting that this fax</p> <p>5 from Mr. Natalone to you is a fabricated</p> <p>6 document?</p> <p>7 A. No MS. GASTWIRTH: Objection.</p> <p>8 MS. BUDD: Objection.</p> <p>9 A. No, I'm not saying that. I'm</p> <p>10 saying it could be. I don't know what it is.</p> <p>11 Q. The fact that you may not have a</p> <p>12 recollection of this document, that was</p> <p>13 established. Let's put that aside for a</p> <p>14 moment.</p> <p>15 After seeing this, it wouldn't</p> <p>16 surprise you that you were actually given</p> <p>17 financials in May of 1999 about the Casino?</p> <p>18 A. You're telling me that.</p> <p>19 Q. I'm asking you.</p> <p>20 A. Yes, it would surprise me.</p> <p>21 Q. It would surprise you?</p> <p>22 A. Yes.</p> <p>23 Q. You were never sent financials in</p> <p>24 May of 1999?</p> <p>25 There's no way that you were sent</p>

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1 **Melius**
2 **financial information concerning the Casino by**
3 **Mr. Natalone?**
4 A. I don't recall.
5 **Q. Because it would surprise you if**
6 **you had gotten it?**
7 A. It would have surprised me.
8 **Q. Even though we're looking at a fax**
9 **that apparently has your stamp on it, your**
10 **file stamp, your handwriting and it's faxed to**
11 **you with your fax number with a fax line on**
12 **the top, you still would say it would surprise**
13 **you that you would have received Casino**
14 **financials in May of 1999?**
15 A. Yes.
16 **Q. Why would that be surprising to**
17 **you?**
18 A. I don't know why I would get them.
19 **Q. The comment says "please see**
20 **attached."**
21 **You don't have any recollection of**
22 **discussing the Casino financials, never mind**
23 **in May of 1999, but at any time with**
24 **Mr. Natalone?**
25 A. I don't recall that.

1 **Melius**
2 **Q. How about the file, it says "Saint**
3 **Regis accounting."**
4 **Did you have a separate file for**
5 **Saint Regis accounting?**
6 A. Don't know.
7 **Q. Looks like it though?**
8 A. It looks like it says that.
9 **Q. It looks like it though?**
10 A. It looks like it.
11 **Q. We know that you had a Saint Regis**
12 **file?**
13 A. That's correct.
14 **Q. And it looks like you've had**
15 **subfiles?**
16 A. I don't know that. We've had some
17 subfiles.
18 **Q. One of them being accounting?**
19 A. I don't know. You told me if I
20 don't know, not to answer. So I don't want to
21 give you --
22 **Q. But even if you don't have a**
23 **recollection, it's not unreasonable to**
24 **conclude that you would have a subfile for**
25 **Saint Regis accounting after looking at this**

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1 **Melius**
2 **document that says, in what we believe is your**
3 **handwriting, "Saint Regis accounting file?"**
4 A. I guess that could be an
5 assumption.
6 MR. BARR: Mark this.
7 (Plaintiff's Exhibit 30, fax cover
8 sheet to Gary Melius from Walter Horn
9 dated 5/26/99 followed by letter to
10 Walter Horn by Thomas McKeon dated
11 5/19/99, followed by letter to Thomas
12 McKeon from Walter Horn dated 5/19/99,
13 marked for identification, as of this
14 date, by the reporter.)
15 **Q. I'm showing you what's been marked**
16 **as Plaintiff's Exhibit 30.**
17 MS. GASTWIRTH: I just want to take
18 a look at it.
19 MR. BARR: Sure.
20 MS. GASTWIRTH: Okay.
21 **Q. Do you recall seeing this document?**
22 A. No.
23 **Q. It's addressed to you, correct?**
24 A. This paper, yes.
25 **Q. Dated May 26, 1999?**

1 **Melius**
2 A. Yes.
3 **Q. Is that your file stamp?**
4 A. Could be.
5 **Q. Does that look like your**
6 **handwriting "Saint Regis liquor license?"**
7 A. Could be.
8 **Q. Fair to say that you also had a**
9 **Saint Regis liquor license subfile?**
10 A. Don't know.
11 **Q. Take a look at those comments and**
12 **tell me whether or not that refreshes your**
13 **recollection?**
14 **That would be the first page.**
15 A. Comments?
16 **Q. Comments, yes.**
17 **It says "SLA issued;" do you know**
18 **what that is?**
19 A. No.
20 **Q. How about the very last line "we**
21 **need this ASAP."**
22 **Any reason why he would have needed**
23 **this ASAP from you?**
24 A. I don't know why he would need
25 anything from me.

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1 Melius
 2 MS. GASTWIRTH: Is that what it
 3 says?
 4 He's asking for something.
 5 I'm sorry. I don't have the
 6 document in front of me.
 7 Doesn't the document speak for
 8 itself?
 9 **Q. Do you know, Mr. Melius, what he**
 10 **was referring to when he's saying "we need**
 11 **this ASAP?"**
 12 A. No.
 13 **Q. You have no reason or no**
 14 **understanding as to why he would be faxing**
 15 **this document to you?**
 16 A. No.
 17 **Q. Do you recall any input you had in**
 18 **a response, any response?**
 19 A. No.
 20 **Q. Would the Saint Regis Casino liquor**
 21 **license be an issue that would be important to**
 22 **you?**
 23 A. No.
 24 **Q. As a matter of fact, you'd have no**
 25 **reason to be involved with the State Liquor**

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1 Melius
 2 A. Could be.
 3 **Q. It says "file Saint Regis**
 4 **marketing?"**
 5 A. It appears to say that.
 6 **Q. Do you believe you had a Saint**
 7 **Regis marketing file?**
 8 A. No.
 9 **Q. You don't think you did?**
 10 A. I don't know.
 11 **Q. You don't know.**
 12 **Next page your file stamp on the**
 13 **upper righthand corner, is that your file**
 14 **stamp on the next page?**
 15 A. Could be.
 16 **Q. It's a memo to Mr. Horn and**
 17 **Mr. Melius from Mr. Ferrucci?**
 18 A. That's what this says.
 19 **Q. How about that "Saint Regis**
 20 **marketing," could that be your handwriting?**
 21 A. Could be.
 22 **Q. It looks like your handwriting?**
 23 A. Could be. It's lousy enough.
 24 **Q. Do you recall seeing this document?**
 25 A. No.

1 Melius
 2 **Authority at this point of time, would you?**
 3 A. I'm not involved with the State
 4 Liquor Authority.
 5 **Q. for the Casino?**
 6 A. I have no contact with them.
 7 **Q. So we understand the record here,**
 8 **you would have no reason in May of 1999 to be**
 9 **involved in the Casino's liquor license; is**
 10 **that correct?**
 11 A. As far as I know, yes.
 12 **Q. So you can't understand why you'd**
 13 **be sent a fax concerning the Saint Regis**
 14 **Casino's liquor license?**
 15 A. No.
 16 MR. BARR: Mark this.
 17 (Plaintiff's Exhibit 31, 28-page
 18 Akwesasne Mohawk Casino marketing
 19 document, marked for identification, as
 20 of this date, by the reporter.)
 21 **Q. Is that your file stamp on the**
 22 **upper righthand corner?**
 23 A. Could be.
 24 **Q. Does that look like your**
 25 **handwriting?**

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1 Melius
 2 **Q. Do you know what it's about?**
 3 A. No.
 4 **Q. The "re" is Canadian media**
 5 **schedule.**
 6 **You don't recall being involved in**
 7 **the Canadian media schedule?**
 8 A. No.
 9 **Q. This is June 4, 1999?**
 10 A. No.
 11 **Q. No?**
 12 A. No.
 13 **Q. Let me see if I could help refresh**
 14 **your recollection.**
 15 **It says "Hi, guys. Thanks for your**
 16 **input last Tuesday and Wednesday. Everyone**
 17 **here appreciates your support. We're working**
 18 **diligently to improve the results."**
 19 **The "hi, guys" is referring to**
 20 **Walter and to you, I would imagine?**
 21 A. I don't know.
 22 **Q. It doesn't refresh any memory at**
 23 **all --**
 24 A. No.
 25 **Q. -- that in the early summertime of**

<p style="text-align: right;">Page 150</p> <p>1 Melius</p> <p>2 1999 you were being forwarded memos concerning</p> <p>3 marketing matters?</p> <p>4 A. No.</p> <p>5 Q. Did you give any input?</p> <p>6 A. Not that I know of.</p> <p>7 MR. BARR: Mark this.</p> <p>8 (Plaintiff's Exhibit 32, two-page</p> <p>9 memo to file from John Natalone, dated</p> <p>10 6/7/99, marked for identification, as of</p> <p>11 this date, by the reporter.)</p> <p>12 Q. I'm showing you what's been marked</p> <p>13 as Plaintiff's 32.</p> <p>14 MS. GASTWIRTH: Can you hang on a</p> <p>15 second. Okay.</p> <p>16 Q. Did you ever see that memo?</p> <p>17 A. I don't recall.</p> <p>18 Q. Do you recall attending a meeting</p> <p>19 held on June 1999 with Mr. Natalone,</p> <p>20 Mr. Kaufman, Mr. Horn and yourself?</p> <p>21 A. No.</p> <p>22 Q. Do you know if that's</p> <p>23 Mr. Natalone's initials?</p> <p>24 A. No, I don't.</p> <p>25 Q. Why don't you take a quick look,</p>	<p style="text-align: right;">Page 151</p> <p>1 Melius</p> <p>2 Mr. Melius, at this memo and tell me whether</p> <p>3 or not you were involved in any of these</p> <p>4 issues?</p> <p>5 MS. GASTWIRTH: Objection as to</p> <p>6 form.</p> <p>7 MS. BUDD: Note my objection.</p> <p>8 A. I don't know what you mean by</p> <p>9 "involved."</p> <p>10 Q. Well, this is a memorandum to file</p> <p>11 that copies you that refers to a meeting held</p> <p>12 on June 2, 1999; is that correct?</p> <p>13 A. That's what this says.</p> <p>14 Q. At that meeting, in accordance with</p> <p>15 this memo that you were copied, there were</p> <p>16 several issues that were discussed concerning</p> <p>17 the Casino. I would just like you to go down</p> <p>18 the line and see whether or not you recall</p> <p>19 whether or not you were involved in any one of</p> <p>20 these issues, and I think they're listed and</p> <p>21 there are seventeen of them.</p> <p>22 A. The only one I could think of would</p> <p>23 be three.</p> <p>24 Q. The sewage issues?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 152</p> <p>1 Melius</p> <p>2 Q. So you recall discussing the sewage</p> <p>3 issues?</p> <p>4 A. No.</p> <p>5 Q. Do you believe that you would have</p> <p>6 been at this meeting?</p> <p>7 A. I don't recall.</p> <p>8 Q. Any reason why you would be</p> <p>9 addressed on this memo if you were not present</p> <p>10 at this meeting, the June 2 meeting?</p> <p>11 A. Don't know. I don't know. People</p> <p>12 send me something, I can't tell you why they</p> <p>13 sent it.</p> <p>14 Q. Any input on the delivery and</p> <p>15 installation of the 300 VLTs?</p> <p>16 A. No.</p> <p>17 Q. Item No. 2, any input concerning</p> <p>18 State Police or Racing and Wagering?</p> <p>19 A. No.</p> <p>20 Q. No. 3, sewage issues?</p> <p>21 A. Yes.</p> <p>22 Q. You think so?</p> <p>23 A. I mean, it's something I could be</p> <p>24 involved in.</p> <p>25 Q. But you have no specific</p>	<p style="text-align: right;">Page 153</p> <p>1 Melius</p> <p>2 recollection?</p> <p>3 A. No.</p> <p>4 Q. No. 4, security?</p> <p>5 A. No.</p> <p>6 Q. No. 5, Canadian head count?</p> <p>7 A. No.</p> <p>8 Q. No. 6?</p> <p>9 A. No.</p> <p>10 Q. No. 7?</p> <p>11 A. No.</p> <p>12 Q. No. 8?</p> <p>13 A. No.</p> <p>14 Q. No. 9?</p> <p>15 A. No.</p> <p>16 Q. No. 10?</p> <p>17 A. No.</p> <p>18 Q. No. 11?</p> <p>19 A. No.</p> <p>20 Q. No. 12?</p> <p>21 A. No.</p> <p>22 Q. No. 13?</p> <p>23 A. No.</p> <p>24 Q. No. 14?</p> <p>25 A. No.</p>

<p style="text-align: right;">Page 154</p> <p>1 Melius</p> <p>2 Q. No. 15?</p> <p>3 A. No.</p> <p>4 Q. No. 16?</p> <p>5 A. No.</p> <p>6 Q. And No. 17?</p> <p>7 A. No.</p> <p>8 MR. BARR: Mark this.</p> <p>9 (Plaintiff's Exhibit 33, two-page</p> <p>10 letter to Thomas McKeon from Walter Horn</p> <p>11 dated 6/7/99, marked for identification,</p> <p>12 as of this date, by the reporter.)</p> <p>13 Q. Mr. Melius, I'm showing you what's</p> <p>14 been marked has Plaintiff's 33.</p> <p>15 MS. GASTWIRTH: Hold on a second.</p> <p>16 Okay.</p> <p>17 Q. Mr. Melius, do you have any reason</p> <p>18 why Mr. Horn would be faxing these documents</p> <p>19 to you?</p> <p>20 A. You know, again, I only can make an</p> <p>21 assumption of what it is in that I was doing</p> <p>22 the construction so I was always in contact</p> <p>23 somewhat with the project and that, I guess, I</p> <p>24 originally put this deal together. I guess</p> <p>25 they felt maybe they should send me stuff, I</p>	<p style="text-align: right;">Page 155</p> <p>1 Melius</p> <p>2 guess. You're better off asking them. That's</p> <p>3 the only guess I could make.</p> <p>4 Q. That applies to all the documents I</p> <p>5 showed you?</p> <p>6 A. Just for whatever reason, they</p> <p>7 thought they should send them to me.</p> <p>8 Q. That would be your file stamp on</p> <p>9 this document?</p> <p>10 A. I don't say that because I don't</p> <p>11 know if this document is real.</p> <p>12 Q. It looks like your file stamp?</p> <p>13 A. It does.</p> <p>14 Q. And does that look like your</p> <p>15 handwriting?</p> <p>16 A. Sure does.</p> <p>17 Q. So you probably had a Saint Regis</p> <p>18 liquor license file then?</p> <p>19 A. Don't know that.</p> <p>20 Q. Did you have any input on this</p> <p>21 letter?</p> <p>22 A. I don't know the letter. I don't</p> <p>23 recall the letter.</p> <p>24 Q. Do you recall having a role in</p> <p>25 developing the Casino's liquor policy?</p>
<p style="text-align: right;">Page 156</p> <p>1 Melius</p> <p>2 MS. GASTWIRTH: Objection.</p> <p>3 A. No.</p> <p>4 MR. BARR: Mark this.</p> <p>5 (Plaintiff's Exhibit 34, letter to</p> <p>6 Thomas McKeon dated 6/11/99, marked for</p> <p>7 identification, as of this date, by the</p> <p>8 reporter.)</p> <p>9 Q. I'm showing you what's been marked</p> <p>10 as Plaintiff's 34.</p> <p>11 Do you recall receiving that</p> <p>12 document?</p> <p>13 A. No.</p> <p>14 Q. Looks like your file stamp on the</p> <p>15 upper righthand corner?</p> <p>16 A. Yes.</p> <p>17 Q. Does it look like your handwriting?</p> <p>18 A. Yes.</p> <p>19 Q. If says "Saint Regis liquor</p> <p>20 license?"</p> <p>21 A. Yes.</p> <p>22 MR. BARR: Mark this.</p> <p>23 (Plaintiff's Exhibit 35, fax cover</p> <p>24 sheet to Gary Melius from Ivan Kaufman</p> <p>25 dated 6/16/99, followed by advertisement</p>	<p style="text-align: right;">Page 157</p> <p>1 Melius</p> <p>2 and memo to Walter Horn from Rich Duda</p> <p>3 dated 6/15/99, marked for identification,</p> <p>4 as of this date, by the reporter.)</p> <p>5 Q. Have you ever seen this document?</p> <p>6 A. No, I don't recall.</p> <p>7 Q. Don't recall?</p> <p>8 A. Don't recall.</p> <p>9 Q. Is that your file stamp on the top?</p> <p>10 A. Could be.</p> <p>11 Q. Your handwriting?</p> <p>12 A. Could be.</p> <p>13 Q. Any reason why you were being sent</p> <p>14 information concerning the 4th of July</p> <p>15 marketing plans by Mr. Kaufman in June of</p> <p>16 1999?</p> <p>17 A. Again, I have no idea. Maybe he</p> <p>18 wanted to invite me up.</p> <p>19 Yes, I believe in this case he did</p> <p>20 want me to come up to see a party.</p> <p>21 MR. BARR: Mark this.</p> <p>22 (Plaintiff's Exhibit 36, fax cover</p> <p>23 sheet to Gary Melius from David Larson</p> <p>24 dated 6/29/99 followed by three-page</p> <p>25 letter to Ivan Kaufman from David Larson</p>

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1 Melius
2 and Engagement Fee Schedule, marked for
3 identification, as of this date, by the
4 reporter.)
5 **Q. Mr. Melius, I'm showing you what's**
6 **been marked as Plaintiff's 36.**
7 **Did you ever see this fax addressed**
8 **to you?**
9 A. Yes.
10 **Q. Yes?**
11 A. Did I see what?
12 **Q. Have you ever seen this fax?**
13 A. No, I don't recall.
14 **Q. Your file stamp is on the right?**
15 A. Could be.
16 **Q. Your handwriting?**
17 A. Yes, it could be.
18 MS. GASTWIRTH: Can I just take a
19 look at it?
20 **Q. Do you know what this is concerning**
21 **this fax?**
22 A. No.
23 **Q. "Attached is a proposal that was**
24 **forwarded to Ivan Kaufman yesterday;" is that**
25 **a fair reading of the first sentence?**

1 Melius
2 MS. BUDD: Objection.
3 MS. GASTWIRTH: The document speaks
4 for itself.
5 A. Yes.
6 **Q. It says "please review this**
7 **agreement and let me know if Ivan and you have**
8 **any interest in furthering discussions with**
9 **our group."**
10 **Do you recall giving any of your**
11 **input on this consulting proposal?**
12 MS. BUDD: Objection.
13 A. No.
14 **Q. Who is David Larson?**
15 A. I don't remember David Larson.
16 **Q. But in June of 1999 he was faxing**
17 **you from his company B&L Financial asking you**
18 **for input on his consulting proposal; is that**
19 **correct?**
20 A. I don't know that.
21 **Q. Just looking at the document.**
22 A. If the document is right, I don't
23 know. I don't know. I don't know, I don't
24 know.
25 **Q. So you had a Saint Regis manager**

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1 Melius
2 **file?**
3 A. Not that I know of.
4 **Q. What do you think that is on the**
5 **righthand corner of that fax?**
6 A. Looks like it could say manager.
7 MR. BARR: Mark this.
8 (Plaintiff's Exhibits 37, memo to
9 Gary Melius from John Natalone dated
10 6/1/99, marked for identification, as of
11 this date, by the reporter.)
12 **Q. I'm showing you what's been marked**
13 **as Plaintiff's 37.**
14 **Have you seen that memo from to you**
15 **from Mr. Natalone?**
16 A. Don't recall.
17 **Q. Is that your file stamp?**
18 A. Could be.
19 **Q. Is that your handwriting?**
20 A. Looks like it.
21 **Q. And the subject of this memorandum**
22 **is "revenue?"**
23 A. Yes, that's what it says.
24 **Q. Any reason why Mr. Natalone in July**
25 **of 1999 would be sending you information**

1 Melius
2 **concerning the revenues?**
3 MS. GASTWIRTH: Objection.
4 A. Same answer and I don't see
5 anything here except a blank paper.
6 MS. BUDD: Right.
7 **Q. It says "see food and beverage**
8 **covers."**
9 **Any recollection that he would have**
10 **sent you the food and beverage covers?**
11 A. I don't know.
12 **Q. Did you maintain a Saint Regis**
13 **accounting file?**
14 A. Not that I know.
15 **Q. It looks like it though,**
16 **"accounting?"**
17 A. It looks like it says that.
18 **Q. So if it says that, you probably**
19 **did maintain a Saint Regis accounting file?**
20 A. I don't know. I don't make files.
21 **Q. But you make notations what file it**
22 **goes into?**
23 A. Correct.
24 **Q. It's fair when you're notating**
25 **"file Saint Regis accounting" there's a Saint**

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1 Melius
2 **Regis accounting file?**
3 A. If I did that.
4 **Q. Are you suggesting that you didn't**
5 **write that, "Saint Regis accounting?"**
6 A. I'm suggesting I don't know.
7 **Q. Do you know what the food and**
8 **beverage covers refer to?**
9 A. No. There's nothing here.
10 **Q. Did you ever ask Mr. Natalone to**
11 **send you this type of information that this**
12 **cover sheet is referring to "food and beverage**
13 **covers" or "revenues?"**
14 A. No.
15 **Q. Did you ever instruct anybody at**
16 **the Casino to send you any kind of financial**
17 **information?**
18 A. No.
19 **Q. You have no understanding as to why**
20 **this was sent to you then?**
21 A. I don't see anything here, so I
22 don't know why somebody would send me a blank
23 paper.
24 **Q. Well, it says "see food and**
25 **beverage covers."**

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1 Melius
2 THE WITNESS: No.
3 A. -- is that I was always, you know,
4 worried about getting my money they owed me.
5 Maybe they wanted to show me they weren't
6 making money. That's the only thing I could
7 think of. Otherwise, I don't recall anything.
8 **Q. What money were you referring to?**
9 A. My buyout.
10 MR. BARR: Mark this.
11 (Plaintiff's Exhibit 38, two-page
12 letter to Gary Melius from Earle J.
13 Goodman dated 7/19/99, marked for
14 identification, as of this date, by the
15 reporter.)
16 **Q. Mr. Melius, you've been shown**
17 **what's been marked as Plaintiff's 38.**
18 **Do you recall seeing this document?**
19 A. No.
20 **Q. It's a letter addressed to you from**
21 **Goodman Design Incorporated dated July 19,**
22 **1999.**
23 **Do you recall ever seeing that?**
24 A. No.
25 **Q. Do you recall ever receiving it?**

1 Melius
2 A. I don't see anything with it.
3 **Q. If we were to show you 10 or 20 or**
4 **30 pages of covers, do you think that would**
5 **help you refresh your recollection?**
6 A. No.
7 **Q. This is trying to save paper.**
8 A. Okay.
9 **Q. What input was Mr. Natalone seeking**
10 **from you, any idea?**
11 A. No idea.
12 MS. GASTWIRTH: Was there something
13 attached to that?
14 We have an incomplete document.
15 MR. BARR: We have other documents
16 here. You got the Bates stamps.
17 MS. GASTWIRTH: Doesn't matter.
18 Note my objection for the record.
19 A. I know I'm not supposed to
20 volunteer. I'll get yelled at. I'm getting
21 dirty faces already.
22 The only reason I could think of,
23 again, is --
24 MS. GASTWIRTH: Is there a
25 question?

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1 Melius
2 A. No.
3 **Q. Any reason why you'd be involved in**
4 **the interior design and space planning for a**
5 **nightclub?**
6 A. For a nightclub?
7 **Q. For the nightclub at the casino in**
8 **July of 1999.**
9 A. Only if we were doing the
10 construction.
11 **Q. Were you the president of**
12 **Anderson-Blake?**
13 **Take a look at the second page**
14 **Bates stamped ARC 13635.**
15 **In 1999, were you the president of**
16 **Anderson-Blake Construction Corporation?**
17 A. Don't know.
18 MS. GASTWIRTH: Is there a question
19 pending?
20 THE WITNESS: No.
21 MR. SEFF: No, there's not.
22 MS. GASTWIRTH: Off the record.
23 (Discussion off the record.)
24 **Q. Do you recall when, if at any time,**
25 **you were the president of Anderson-Blake**

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1 **Melius**
2 **Construction Corporation?**
3 A. Yes.
4 **Q. Do you know when?**
5 A. No.
6 **Q. Five years ago, ten years ago?**
7 MS. BUDD: I think it's been asked
8 and answered actually.
9 A. Don't know.
10 **Q. Don't know?**
11 A. Don't know.
12 MR. BARR: Mark this.
13 (Plaintiff's Exhibit 39, 18-page
14 memo to Gary Melius from John Natalone,
15 marked for identification as of this
16 date, by the reporter.)
17 MS. GASTWIRTH: At some point can
18 we take a break?
19 **Q. Showing you, Mr. Melius, what's**
20 **been marked as Exhibit 39, did you ever see**
21 **this memorandum before?**
22 A. Don't recall.
23 **Q. Is that your file stamp?**
24 A. Looks like it.
25 MS. GASTWIRTH: Can I take a look?

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1 **Melius**
2 series?
3 MR. BARR: No. You want to
4 break?
5 MS. GASTWIRTH: Yes.
6 How about ten after three.
7 (Recess taken.)
8 MR. BARR: Mark this, please.
9 (Plaintiff's Exhibit 40, six-page
10 financial document re: Okeka Arbor loan,
11 marked for identification, as of this
12 date, by the reporter.)
13 (Plaintiff's Exhibit 41, nine-page
14 financial document re: Massena
15 investment, marked for identification, as
16 of this date, by the reporter.)
17 (Plaintiff's Exhibit 42, eight-page
18 financial document to Gary from John,
19 marked for identification, as of this
20 date, by the reporter.)
21 **Q. I'm going to show you, Mr. Melius,**
22 **what's been marked as Plaintiff's Exhibits 40,**
23 **41 and 42. I'll ask you to take a look at**
24 **them. In particular, I'll ask you questions**
25 **on Exhibit 40 first. These are documents that**

1 **Melius**
2 **Q. Is that your handwriting?**
3 A. Looks like it.
4 MS. GASTWIRTH: Hang on a second.
5 I just want to take a look at the
6 document.
7 **Q. For identification purposes,**
8 **Mr. Melius, it's Bates stamped ARC 04753**
9 **through 04770.**
10 **Do you know why the Casino**
11 **financial information was sent to you and**
12 **copied to Mr. Horn?**
13 A. Again, the only reason I could
14 think of is I was owed money. I think at this
15 point too I was owed money for the
16 construction. So maybe they were trying to
17 say we can't pay you because we're doing bad.
18 I don't know. That's the best I could
19 recollect something like that.
20 **Q. Did you instruct Mr. Natalone to**
21 **send you this information?**
22 A. No.
23 **Q. Do you recall seeing this memo?**
24 A. No.
25 MS. GASTWIRTH: Is that part of the

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1 **Melius**
2 **came from your files. They're Bates stamped**
3 **ARC. I guess it's Archon's production to Park**
4 **Place. The first one, Exhibit 40, has a Bates**
5 **stamp ARC 044465 through 044470. Let's start**
6 **with the first page, Mr. Melius.**
7 MS. GASTWIRTH: Hang on. I'm not
8 ready yet.
9 **Q. On the lefthand side you've got a**
10 **file stamp.**
11 **It looks like your file stamp,**
12 **correct?**
13 A. Could be.
14 **Q. "Saint Regis accounting," looks**
15 **like your handwriting?**
16 A. Looks like it.
17 **Q. The top of it says "Oheka Arbor**
18 **Loan?"**
19 MS. GASTWIRTH: Objection.
20 A. Okay.
21 **Q. "Amounts borrowed, principal**
22 **payments?"**
23 A. Okay.
24 **Q. Why was this document in your file,**
25 **any idea?**

<p style="text-align: right;">Page 170</p> <p>1 Melius</p> <p>2 A. No.</p> <p>3 Q. Can you explain the Oheka Arbor</p> <p>4 loan?</p> <p>5 A. No, I've had loans that's all. I</p> <p>6 can't tell you specifics, but I've borrowed</p> <p>7 tens of millions from Arbor.</p> <p>8 Q. Do you recall seeing this document?</p> <p>9 A. No.</p> <p>10 Q. Do you know who created this</p> <p>11 document?</p> <p>12 A. No.</p> <p>13 Q. Do you know what type of analysis</p> <p>14 this document is going through?</p> <p>15 A. I'm not sure. I'm not good at</p> <p>16 accounting.</p> <p>17 Q. Do you know what the paydown is?</p> <p>18 A. Paydown?</p> <p>19 Q. Lower lefthand corner says</p> <p>20 "paydown."</p> <p>21 A. Lower lefthand corner.</p> <p>22 Q. On 2/9/99, there's a paydown for</p> <p>23 \$2,000,000. On 2/11/99, there's a paydown for</p> <p>24 \$3 million.</p> <p>25 A. Where?</p>	<p style="text-align: right;">Page 171</p> <p>1 Melius</p> <p>2 I don't see that.</p> <p>3 Where does it say that?</p> <p>4 Q. If you don't mind me standing up,</p> <p>5 I'll show you.</p> <p>6 A. No, I don't mind.</p> <p>7 Q. Right there (indicating).</p> <p>8 A. Okay, paydown. Sorry about that.</p> <p>9 Okay.</p> <p>10 Q. I'm going to try to understand this</p> <p>11 with you. It looks as if it's a spreadsheet</p> <p>12 that is tracking your Oheka Arbor loan at the</p> <p>13 same time as it tracks the balance and it's</p> <p>14 pointing out loan increases and paydowns and</p> <p>15 it's also tracking the Anderson-Blake fund.</p> <p>16 Why don't we start with the lower</p> <p>17 right hand corner. The funds recede.</p> <p>18 MS. GASTWIRTH: Hang on a second,</p> <p>19 okay.</p> <p>20 Q. \$14,338,157.16; do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Is that what Anderson-Blake,</p> <p>23 roughly speaking, was paid?</p> <p>24 A. I would think so.</p> <p>25 Q. Then on the lefthand side there's a</p>
<p style="text-align: right;">Page 172</p> <p>1 Melius</p> <p>2 balance of "Oheka Arbor loan."</p> <p>3 Do you know what that would mean</p> <p>4 "Oheka Arbor loan?"</p> <p>5 A. Probably a loan I borrowed against</p> <p>6 Oheka.</p> <p>7 Q. Against Oheka Castle?</p> <p>8 A. Yes.</p> <p>9 Q. Was that your residence at the</p> <p>10 time?</p> <p>11 A. I don't know.</p> <p>12 Q. This covers a period of 1996</p> <p>13 through 1999?</p> <p>14 A. I don't know. I mean, there was a</p> <p>15 time I've lived there. I don't know what time</p> <p>16 that was.</p> <p>17 Q. Who is Arbor?</p> <p>18 What's Arbor?</p> <p>19 A. Arbor is a lending company.</p> <p>20 Q. And they lent you money using the</p> <p>21 Oheka Castle as security?</p> <p>22 A. Yes.</p> <p>23 Q. Would it be fair to say that this</p> <p>24 would, in principle, be the spreadsheet for</p> <p>25 the loan against Oheka, the Oheka Arbor loan?</p>	<p style="text-align: right;">Page 173</p> <p>1 Melius</p> <p>2 MS. BUDD: Objection.</p> <p>3 MS. GASTWIRTH: Objection.</p> <p>4 A. Something to do with Oheka Arbor</p> <p>5 loan.</p> <p>6 Q. I guess I want to know whether or</p> <p>7 not it's accurate?</p> <p>8 A. I have no idea.</p> <p>9 Q. It's a document produced in your</p> <p>10 file concerning the Oheka Arbor loan.</p> <p>11 I'm asking whether or not it's</p> <p>12 accurate.</p> <p>13 A. I don't recall. I can't remember</p> <p>14 a number specifically that's owed on a</p> <p>15 specific date in 1999 or '98.</p> <p>16 Q. That paydown, do you know what that</p> <p>17 paydown was?</p> <p>18 A. Payments I made, I would assume, if</p> <p>19 that's what this is.</p> <p>20 Q. Could that have been a paydown for</p> <p>21 the Miller & Schroeder financing?</p> <p>22 A. I don't understand what you're</p> <p>23 saying to me.</p> <p>24 Q. Could that \$6 million of paydown</p> <p>25 shown on this schedule be from the proceeds of</p>

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1 **Melius**
2 **the Miller & Schroeder financing?**
3 A. No.
4 **Q. No?**
5 A. No.
6 **Q. Let me show you what's been marked**
7 **as Plaintiff's Exhibit 41. I ask you to take**
8 **a look at that.**
9 **Just for the record, you're looking**
10 **at -- the Bates stamps go from ARC 04520**
11 **through to ARC 04528.**
12 **Have you ever seen those documents**
13 **before?**
14 A. Don't recall.
15 **Q. Is that your file stamp?**
16 A. Could be.
17 **Q. Is that your handwriting?**
18 A. Could be.
19 Could I stipulate to all of them to
20 save time?
21 **Q. I appreciate that, but let's --**
22 A. All right. Whatever you want to
23 do. You got to make a buck.
24 MS. GASTWIRTH: They may not be
25 file stamped. Have patience.

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1 **Melius**
2 **Oheka that you must have been making**
3 **distributions against; is that fair?**
4 A. I don't know.
5 MS. GASTWIRTH: Objection.
6 A. I don't know.
7 **Q. Again, it shows paydowns of**
8 **\$2 million, \$3 million and \$1 million?**
9 A. Okay.
10 **Q. You don't know what those paydowns**
11 **are?**
12 A. I don't recall it. Again, I'm only
13 making an assumption it's a true document and
14 it's showing payments. Again, I would assume
15 it's payments I made. I didn't prepare this
16 document, so I certainly would not have any
17 way of really knowing.
18 **Q. Okay. Let's go back to Plaintiff's**
19 **Exhibit 41.**
20 MS. GASTWIRTH: You have 41 in
21 front of you.
22 **Q. Go to Bates stamp ARC 04522 about**
23 **three pages in.**
24 **Did you ever see that document?**
25 A. I don't recall.

1 **Melius**
2 **Q. I want you to go back now for a**
3 **moment, if you could just bear with me, to**
4 **Plaintiff's Exhibit 40.**
5 **You can look at ARC 04468.**
6 A. Got it.
7 **Q. You got it?**
8 A. Got it.
9 **Q. It says "loans Oheka**
10 **distributions?"**
11 A. Right.
12 **Q. Did you ever see this document**
13 **before?**
14 A. Don't recall.
15 **Q. Is that your handwriting on the**
16 **right side?**
17 A. Could be.
18 **Q. It says "amount specific to the**
19 **casino."**
20 **Any reason why there would be loans**
21 **to Oheka, distribution amount specific to the**
22 **casino?**
23 A. No.
24 **Q. Around this time you had a line of**
25 **credit, some sort of a line of credit against**

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1 **Melius**
2 **Q. Do you know whose initials is that**
3 **on the upper righthand corner?**
4 A. Not a clue.
5 **Q. If I was to tell you, represent to**
6 **you that that was John Natalone's initials,**
7 **would you have any reason to disagree with**
8 **that?**
9 A. I couldn't disagree or agree. I
10 have no idea what his initials look like.
11 **Q. Take a look at that these**
12 **spreadsheets and tell me what do you think**
13 **Mr. Natalone, if it was Mr. Natalone, was**
14 **creating here?**
15 MS. GASTWIRTH: Objection.
16 MS. BUDD: Objection.
17 MS. GASTWIRTH: Why are you asking
18 him to speculate about somebody else's
19 stuff?
20 **Q. Can you answer the question?**
21 A. Don't know.
22 **Q. It says "Massena investment as of**
23 **12/31/98" upper lefthand corner.**
24 A. Okay.
25 **Q. It has Mr. Kaufman's actual**

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1 **Melius**
2 **investment as of 12/31/98. It's got a number**
3 **and it's got Mr. Melius with an investment.**
4 A. Okay.
5 MS. GASTWIRTH: It doesn't say
6 investment.
7 It says "payments to Melius."
8 Is that where you're looking?
9 MS. BUDD: Right, payments.
10 **Q. That number B or below it says**
11 **"\$10,386,749;" do you see that number?**
12 A. Yes.
13 **Q. That's a compilation of that entire**
14 **column, okay. I'll represent that to you, the**
15 **mathematical computation of that column.**
16 **You go down below that and it says**
17 **"equity contribution through 10/31;" do you**
18 **see that, \$10,386,750?**
19 A. Right.
20 **Q. That's the same number; is that**
21 **correct?**
22 A. Yes.
23 **Q. It says "equity contribution?"**
24 A. It is not exactly the same.
25 **Q. Off by a dollar?**

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1 **Melius**
2 **3/31/99 of additional construction costs.**
3 **Do you see where it says Z down at**
4 **the bottom and that construction cost is**
5 **\$9,490,000?**
6 MS. GASTWIRTH: Do you see where
7 that is?
8 MR. BARR: Upper righthand corner.
9 Go up further (indicating). I'm just
10 pointing.
11 Let the record reflect I'm reaching
12 across (indicating).
13 THE WITNESS: Okay.
14 MR. BARR: If you don't mind, maybe
15 this is a better way if I could reach
16 across.
17 MS. GASTWIRTH: Go ahead.
18 **Q. You got one column. It says**
19 **"actual as of 12/31/98" and this is the**
20 **Massena investment as of 12/31/98. You got**
21 **one column for Mr. Kaufman and one for**
22 **Mr. Melius that adds up to \$10,386,749, if I'm**
23 **doing that upside down correctly.**
24 MS. GASTWIRTH: It's not quite
25 columns. These are entries.

1 **Melius**
2 A. Yes.
3 **Q. That's correct. Good spot.**
4 A. A dollar is a dollar.
5 **Q. Any reason why this spreadsheet**
6 **would be showing equity contributions of**
7 **\$10,386,750 between you and Mr. Kaufman?**
8 MS. GASTWIRTH: Objection.
9 That's not what it says. It just
10 says "equity contribution through 10/31."
11 It doesn't ascribe anything.
12 **Q. Let's go through the document here.**
13 MS. GASTWIRTH: He says he doesn't
14 know anything about the document. If you
15 want to go through the document, go ahead
16 and ask him.
17 **Q. You've had no input on this**
18 **document?**
19 A. No.
20 **Q. Never seen this document?**
21 A. Don't recall.
22 **Q. No reason why this document would**
23 **ever be created?**
24 A. Not that I know of.
25 **Q. It's got an estimate from 1/1 to**

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1 **Melius**
2 MR. BARR: That's the summary of
3 those columns.
4 MS. GASTWIRTH: That's your
5 interpretation. It has Melius and
6 Mr. Kaufman.
7 MR. BARR: We'll ask him.
8 MS. GASTWIRTH: I think it's more
9 productive.
10 **Q. Let's go through it as of 1/1, the**
11 **estimate for what I believe is additional**
12 **construction for the casino. Let's call it**
13 **\$9,500,000.**
14 MS. GASTWIRTH: Objection. It
15 doesn't say additional. It says
16 "construction cost."
17 MR. BARR: Estimate.
18 MS. GASTWIRTH: Estimate.
19 MR. BARR: There's "actual" and
20 there's "estimate."
21 MS. GASTWIRTH: Correct.
22 **Q. So you've got \$10 million. You've**
23 **got that number (indicating). You got that**
24 **number (indicating). That equals \$19,876,749.**
25 **Now that number carries over to there**

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1 **Melius**
2 **(indicating). Those two numbers below that**
3 **follow from there; is that correct?**
4 A. I don't know.
5 **Q. Same numbers?**
6 A. Okay. Go ahead.
7 **Q. So you've got that number down**
8 **there which is the same summary of over here**
9 **(indicating).**
10 MS. BUDD: Objection.
11 I mean, that's your interpretation.
12 MS GASTWIRTH: Did you want him to
13 confirm the numbers on the document. He
14 can do that.
15 MR. BARR: I want him to look at
16 it and see if he understands.
17 MS. GASTWIRTH: Ask him if he
18 understands. That may shortcut it.
19 **Q. "Note 1 - Ivan to lend 50 percent**
20 **of the cost (Y+Z) @10 percent." Additional**
21 **costs, \$9,490,000.**
22 **The additional costs, estimated**
23 **additional costs, one half of that, according**
24 **to this document, it was going to be lent to**
25 **you by Ivan at 10 percent; is that correct?**

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1 **Melius**
2 **above, okay?**
3 A. Okay.
4 **Q. I'm just trying to understand the**
5 **chart with you.**
6 **If you see the number, you can say**
7 **okay.**
8 A. I see the numbers, the same
9 numbers.
10 **Q. Miller/Schroeder loan of \$8 million**
11 **and lease of FFE, that adds up to be**
12 **\$12 million; is that correct?**
13 A. I don't know. It doesn't give a
14 total.
15 **Q. Below that it says "due from Ivan**
16 **and Melius;" do you know what that column**
17 **refers to?**
18 A. No.
19 **Q. "Ivan 50 percent share" and "Gary**
20 **50 percent share;" do you know what those**
21 **columns refer to?**
22 A. No.
23 **Q. How about ASF loan to Oheka as of**
24 **12/31 \$5,620,000, does that make sense?**
25 MS. GASTWIRTH: I think it says

1 **Melius**
2 MS. GASTWIRTH: Objection.
3 MS. BUDD: Objection.
4 **Q. Was that ever done, did Ivan or one**
5 **of his entities ever lend you --**
6 MS. GASTWIRTH: Objection.
7 You're asking him a question that
8 you're putting in your own evidence and
9 asking him to assume that's correct
10 and then having him testify.
11 Why don't you ask him what his
12 understanding is of that?
13 **Q. Did Mr. Kaufman, through his**
14 **entities, ever lend you any money for the**
15 **investment in this Casino?**
16 A. For investment in a casino?
17 I don't know. I don't recall.
18 **Q. So going further down below that**
19 **number that says \$19,876,750, below that in**
20 **the same column, Mr. Melius, it has "with loan**
21 **and lease of FFE;" do you know what that is?**
22 A. No.
23 **Q. It says below that "capital**
24 **required to open \$9,490,000. That happens to**
25 **be the same number of Z in the column up**

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1 **Melius**
2 \$4,365,000. No, I'm looking at the wrong
3 thing.
4 THE WITNESS: No, the one above.
5 A. I have no idea. I suggest you ask
6 Natalone.
7 **Q. I'm going to bring you now back for**
8 **a moment. Keep your finger on that and go**
9 **back to Exhibit 40.**
10 **The first page of Exhibit 40,**
11 **there's a number. I'm going to point to you,**
12 **Mr. Melius, where that number is. The**
13 **\$5,620,000 ties to a number on the first page**
14 **of Plaintiff's Exhibit 40 and it's the**
15 **\$5,628,000 number. That number is the same**
16 **number that's found on Plaintiff's Exhibit 41**
17 **on 04522.**
18 **Does that help refresh your**
19 **recollection that as of 12/31 there was a loan**
20 **against Oheka that's related to the Casino of**
21 **over \$5 million?**
22 MS. BUDD: Objection.
23 A. No.
24 **Q. Do you know why this sheet, which**
25 **would be Plaintiff's Exhibit 41, would be**

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1 **Melius**
2 **referring to ASF loan to Oheka as of 12/31 for**
3 **\$5,620,000?**
4 A. No.
5 **Q. Is it just a fabrication?**
6 MS. GASTWIRTH: Objection.
7 A. How could I say that?
8 I don't know what anything is. I
9 don't know what it is.
10 **Q. Mr. Melius, do you currently owe**
11 **any money to Arbor?**
12 A. Yes.
13 **Q. Do you know how much?**
14 A. No.
15 **Q. I'm going to ask you to go to**
16 **Plaintiff's 41. Go to ARC 04527.**
17 **Did you ever see this document**
18 **before?**
19 A. No, not that I recall.
20 **Q. The notation on the upper lefthand**
21 **corner is Massena Management capital**
22 **contributions as of 12/31/98.**
23 **Did I say that correctly?**
24 A. Yes.
25 **Q. Any reason why there would be a**

1 **Melius**
2 **spreadsheet showing capital contributions of**
3 **you and Mr. Kaufman as of 12/31/98?**
4 A. I have no idea, not coming from me.
5 **Q. On the righthand side it says**
6 **"Melius \$2,875,000 loan to Melius at 10**
7 **percent against Oheka, backup to be provided;"**
8 **any idea what that is?**
9 A. No.
10 **Q. It purports to say there's going to**
11 **be a loan to you that's going to utilize Oheka**
12 **Castle; is that correct?**
13 A. I don't know. You're saying that.
14 I don't know what it means.
15 **Q. Do you know who produced this**
16 **document?**
17 A. Not me.
18 **Q. Do you know why it would have been**
19 **in your files?**
20 A. No.
21 MS. GASTWIRTH: I don't know if it
22 was in his files. I have no idea. It's
23 one produced by Park Place. This one is
24 not stamped.
25 THE WITNESS: Yes, it is.

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1 **Melius**
2 MS. BUDD: The front. We don't
3 know if it's together.
4 MS. GASTWIRTH: No idea.
5 **Q. So we understand, Mr. Melius, stay**
6 **on 04527 and take a look at 04522?**
7 A. Okay.
8 **Q. Tell me just whether or not you**
9 **agree with the total of contributions, the**
10 **bottom line of \$5,499,750 and the next line**
11 **where it says Melius \$4,887,000 is equal to**
12 **where it says B, \$10,386,750; did I state that**
13 **correctly?**
14 A. I don't know. I don't see the A,B
15 and Cs there. Where is that?
16 Do you see A, B and C?
17 MS. GASTWIRTH: No, I missed it
18 totally.
19 **Q. That number B is the same number as**
20 **B?**
21 A. Where is B?
22 MS. GASTWIRTH: There are two Bs on
23 here?
24 A. To be or not to be.
25 **Q. Is that not the same B?**

1 **Melius**
2 MS. GASTWIRTH: That \$10 million?
3 A. Yes, is that the same B as B over
4 here (indicating)?
5 MS. GASTWIRTH: Do you know?
6 A. I can only say that -- no, it's
7 different.
8 **Q. By one dollar?**
9 A. It's different.
10 **Q. By one dollar?**
11 A. Yes.
12 **Q. Do you recall getting any**
13 **spreadsheets from anyone at Arbor that covered**
14 **this topic concerning investments in Massena**
15 **Management?**
16 A. No, I had no investments in Massena
17 Management.
18 **Q. It looks like from these documents**
19 **you do.**
20 MS. GASTWIRTH: Objection.
21 MS. BUDD: Objection.
22 MS. GASTWIRTH: Asked and answered.
23 **Q. Fair?**
24 A. No, I don't know.
25 It's like Republicans and

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1 Melius
 2 Democrats. You look and see different things,
 3 right? It's the same thing.
 4 MR. BARR: Mark this.
 5 (Plaintiff's Exhibit 43, invoices
 6 Bates stamped ARC 02934 through ARC
 7 02958, marked for identification, as of
 8 this date, by the reporter.)
 9 **Q. Just for identification purposes,**
 10 **Mr. Melius, Plaintiff's Exhibit 43 is Bates**
 11 **stamped from ARC 02934 through to ARC 02958.**
 12 MS. GASTWIRTH: Hang on a second.
 13 **Q. You've been shown what's been**
 14 **marked as Plaintiff's 43.**
 15 **The very first page; do you know**
 16 **what that is?**
 17 A. What is it?
 18 **Q. Yes.**
 19 A. It looks like an invoice.
 20 **Q. An invoice from?**
 21 A. From Anderson-Blake.
 22 **Q. Is that your company?**
 23 A. Yes.
 24 **Q. What's Anderson-Blake Saint Regis?**
 25 A. I don't think there's an

1 Melius
 2 Anderson-Blake Saint Regis company.
 3 **Q. It says "bill to Massena**
 4 **Management?"**
 5 A. Yes.
 6 **Q. "Construction management service**
 7 **for Saint Regis Casino, half a million**
 8 **dollars?"**
 9 A. Yes.
 10 **Q. Does it look familiar to you?**
 11 A. No.
 12 **Q. Let's turn the page to ARC 02935;**
 13 **do you know what that is?**
 14 A. It looks like a part of a check
 15 stub and an invoice.
 16 **Q. Do you know what Oheka Castle**
 17 **Catering, Inc. is?**
 18 A. Yes.
 19 **Q. Did they borrow any money from**
 20 **Arbor?**
 21 A. Yes.
 22 **Q. Related to the Casino?**
 23 A. No.
 24 **Q. It says "Oheka Castle Catering,**
 25 **Inc. Arbor secured funding account."**

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Page 193

1 **Melius**
 2 MS. GASTWIRTH: I object to this
 3 one. It looks like you got pages over
 4 pages and this looks like there's writing
 5 over the top. It looks like a check on
 6 top, a second check. There's two No.
 7 1078s and it looks like Oheka Castle and
 8 catering is written over something I
 9 can't make out.
 10 MR. BARR: It's either Mr. Melius
 11 knows what it is or doesn't know what it
 12 is.
 13 MS. GASTWIRTH: It looks like it
 14 might have been written over Anderson
 15 Blake. Who knows.
 16 MR. BARR: This is the way it was
 17 produced.
 18 MS. GASTWIRTH: I can't help that.
 19 THE WITNESS: I don't know what it
 20 is.
 21 MR. BARR: I'm not asking if you
 22 can help that.
 23 I'm asking if he knows what it is.
 24 A. I don't know what it is.
 25 **Q. Go to 02945.**

1 **Melius**
 2 A. Okay.
 3 **Q. Do you see that handwriting there?**
 4 A. Yes.
 5 **Q. Do you know who Helen is?**
 6 A. I know a Helen.
 7 **Q. That worked for Anderson-Blake?**
 8 A. I don't know.
 9 **Q. It says "this is what I've been**
 10 **doing each time I receive a Saint Regis check.**
 11 **Only if there is a problem, please let me**
 12 **know, Helen."**
 13 **Do you have any idea what this**
 14 **invoice is or what this notation is?**
 15 A. No.
 16 **Q. Do you know what this construction**
 17 **management services for the Saint Regis Casino**
 18 **would be?**
 19 A. No, I didn't prepare this.
 20 **Q. Let me show you, Mr. Melius, what's**
 21 **been marked as Plaintiff's 42.**
 22 MS. GASTWIRTH: Are you done with
 23 the other one?
 24 MR. BARR: Yes.
 25 **Q. It says to "Gary from John."**

<p style="text-align: right;">Page 194</p> <p>1 Melius</p> <p>2 MS. GASTWIRTH: That's on 4737?</p> <p>3 MR. BARR: It's on 4737, that's</p> <p>4 right.</p> <p>5 Q. ARC 4737 through ARC 4744, did you</p> <p>6 get this from John Natalone?</p> <p>7 A. I have no idea what it is.</p> <p>8 Q. If you turn the page over, look at</p> <p>9 the fax line. I'm sorry. Turn it around</p> <p>10 upside down. Somehow it came through on the</p> <p>11 fax upside down. If you turn it around.</p> <p>12 A. You mean this page (indicating)?</p> <p>13 Q. I'm sorry. Here (indicating).</p> <p>14 Look at that.</p> <p>15 A. Oh, okay.</p> <p>16 Q. It looks like it came from Arbor</p> <p>17 National. I think the next page is a little</p> <p>18 clearer, Arbor National on October 25, 1999 at</p> <p>19 2:38 p.m.</p> <p>20 A. Where did it go to?</p> <p>21 Q. It looks like it went to you.</p> <p>22 It says "to Gary."</p> <p>23 A. Oh, but the fax doesn't do that. I</p> <p>24 mean, all the other ones have my number on it.</p> <p>25 That's why I'm confused.</p>	<p style="text-align: right;">Page 195</p> <p>1 Melius</p> <p>2 Q. This one says "from."</p> <p>3 Some of them say "to."</p> <p>4 A. This is from?</p> <p>5 Q. Arbor National.</p> <p>6 A. I'm saying they're all to me with</p> <p>7 the fax number on it. I'm trying to</p> <p>8 understand if this is to me, it doesn't have</p> <p>9 the 0804 number.</p> <p>10 Q. There are a lot of different</p> <p>11 documents.</p> <p>12 A. I think my machine prints a number</p> <p>13 on it. I'm trying to help. I don't know if</p> <p>14 that's correct or not.</p> <p>15 Q. This one looks like it came from</p> <p>16 Arbor National on October 25.</p> <p>17 A. It could have went to Arbor.</p> <p>18 Q. It says "to Gary from John."</p> <p>19 A. That's the front page.</p> <p>20 What does that have to do with</p> <p>21 anything else?</p> <p>22 You can say whatever you want.</p> <p>23 Q. I'm going to ask you about that</p> <p>24 document.</p> <p>25 A. Okay. Go ahead. I don't know</p>
<p style="text-align: right;">Page 196</p> <p>1 Melius</p> <p>2 nothing.</p> <p>3 Q. The next page upper lefthand corner</p> <p>4 there's initials, John Natalone's initials,</p> <p>5 correct?</p> <p>6 A. No, I don't know.</p> <p>7 Q. Dated 10/25/99?</p> <p>8 A. That's correct.</p> <p>9 Q. Have you ever seen this document</p> <p>10 before?</p> <p>11 A. Not that I recall.</p> <p>12 Q. Do you know halfway down what the</p> <p>13 "Melius credit" means?</p> <p>14 A. No.</p> <p>15 Q. How about the "half share;" do you</p> <p>16 know what that means?</p> <p>17 A. No.</p> <p>18 Q. Does that mean you have a half</p> <p>19 share in the Casino?</p> <p>20 A. Never had a half share in a casino.</p> <p>21 I don't know. It doesn't mean that.</p> <p>22 Q. This purports to be some analysis</p> <p>23 giving somebody a half share in a Casino?</p> <p>24 MS. GASTWIRTH: Objection.</p> <p>25 The word "casino doesn't appear on</p>	<p style="text-align: right;">Page 197</p> <p>1 Melius</p> <p>2 the page at all.</p> <p>3 MR. BARR: You want to testify?</p> <p>4 We all want to testify for our</p> <p>5 clients. We do a better job.</p> <p>6 Q. "As of June 30 the basis in the</p> <p>7 casino can be summarized as follows," the top</p> <p>8 line ARC 04738. Then further on, as of 9/30</p> <p>9 there's an investment. It looks like the</p> <p>10 basis of the Casino further down Mr. Natalone,</p> <p>11 we believe, had a notation of 9/30 investment</p> <p>12 Massena/Pres. capital contribution</p> <p>13 \$16,230,750, out of escrow \$500,000.</p> <p>14 Do you know what that number is</p> <p>15 "out of escrow?"</p> <p>16 A. No.</p> <p>17 Q. Could that have been the number</p> <p>18 that was paid to you at closing?</p> <p>19 A. I have no idea what it is.</p> <p>20 Q. If I remember correctly, the deal</p> <p>21 that you had with Mr. Kaufman is that you were</p> <p>22 to get paid \$250,000 on signing of that</p> <p>23 partnership purchase buyout and then when the</p> <p>24 NIGC were to approve the Management Agreement</p> <p>25 you were to get another half million; does</p>

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1 **Melius**
2 **that refresh your recollection?**
3 A. Sounds like that could be.
4 **Q. That purports with your earlier**
5 **testimony you received \$750,000, you believed,**
6 **from Mr. Kaufman; is that correct?**
7 A. I can only tell you I received 750.
8 I can't tell you how.
9 **Q. The next line "Melius credit**
10 **\$2,012,000" and you testified you have no idea**
11 **what that is?**
12 A. It's not my document. I have no
13 idea.
14 **Q. It's got a total of "\$18,742,750"**
15 **and "half share \$9,371,375" and you just don't**
16 **know what that half share, what that number**
17 **means?**
18 A. No, I don't know. These things are
19 confusing.
20 Are you assuming that these are
21 investments in the casino; is that what you're
22 trying to say?
23 **Q. I don't know. These documents were**
24 **produced from your files and when they make**
25 **reference to Mr. Melius for investments in the**

1 **Melius**
2 **Casino, we have an interest in wanting to know**
3 **what these documents are?**
4 A. To clear it up, are you saying that
5 these are numbers for investments that were
6 put into the casino?
7 **Q. I'm not saying anything. I'm**
8 **asking you the question, if you know.**
9 A. I'm trying to interpret what you're
10 saying to me, that's all.
11 **Q. Maybe you can help me and tell me**
12 **what you think these numbers are?**
13 A. I'm asking you. I'm trying to
14 understand. I'm confused here.
15 You're saying this is money that
16 you were trying to get from me. So I could
17 answer you properly that this was money that
18 was put into the casino and that I may have
19 put some of that money into the casino and
20 this is the money that was put there. I don't
21 know if it's not. What does it have any
22 bearing on it? It's nothing to do with money.
23 **Q. It may be if that was part of your**
24 **investment in the Casino maybe these documents**
25 **are showing that.**

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1 **Melius**
2 A. I don't know what that means and if
3 it's not the money put into the casino --
4 **Q. Fair enough. Did Mr. Natalone ever**
5 **have any conversations with you concerning**
6 **investments in the casino or Massena**
7 **Management?**
8 MS. GASTWIRTH: Objection.
9 A. I don't understand that.
10 **Q. Let me try again.**
11 **Did you ever have any conversations**
12 **with Mr. Natalone about your investment in the**
13 **Casino?**
14 MS. GASTWIRTH: Objection.
15 MS. BUDD: Objection.
16 A. I had no investment in a casino.
17 **Q. Any idea why these documents would**
18 **be created if you had no investment in a**
19 **casino?**
20 A. That's why I was asking if you
21 could help me, if you could tell me if that's
22 investments in a casino.
23 **Q. Let's keep going. How about the**
24 **next page, 04739, upper lefthand corner says**
25 **"Massena Management capital contributions as**

1 **Melius**
2 **of 4/30/99" and it's got you listed. It says**
3 **a total of \$2,012,000 with a little 1 next to**
4 **it is carried back over to the previous page;**
5 **is that correct?**
6 **Go to the previous page.**
7 A. That number the same number, same
8 number as what?
9 **Q. Where it says "Melius credit**
10 **\$2,012,000."**
11 A. Like I told you, I can't tell you.
12 If you could tell me what this is "casino
13 contributions."
14 **Q. I don't know?**
15 A. Sorry. I don't know. I guess we
16 both don't know.
17 **Q. You just have no idea what this**
18 **capital contribution as of April 30, 1999**
19 **would be on this spreadsheet?**
20 A. Well, I don't know. I'm saying to
21 you I don't know what this is.
22 Is this money that was invested in
23 a casino, I don't know. I don't know what
24 you're trying to say. If it isn't, you
25 certainly couldn't be asking me if I had an

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1 Melius
2 investment in a casino.
3 **Q. Do you think if it was the person**
4 **that created this documents, if it's**
5 **Mr. Natalone we should ask him?**
6 A. That's up to you.
7 **Q. That would help us understand these**
8 **better?**
9 A. I don't know. I'm asking you for
10 help because I don't understand them.
11 **Q. Why don't we take a step back here**
12 **and go to Exhibit 40 for a moment.**
13 A. Oh, we're going the wrong way here.
14 **Q. Maybe you could just help us**
15 **understand the Oheka Arbor loans and what you**
16 **remember about your Oheka Arbor loans, what**
17 **you borrowed from Mr. Kaufman utilizing the**
18 **Oheka Castle as security.**
19 A. I don't recall. I told you I
20 borrowed probably \$50 million over the time
21 with Ivan. I don't know.
22 **Q. You don't think any of that money**
23 **that you borrowed from Arbor or one of Ivan**
24 **Kaufman's finance companies was used to make**
25 **an investment in the casino?**

1 Melius
2 A. I made no investment. I sold the
3 Casino. I didn't invest in it.
4 **Q. So not withstanding any of these**
5 **spreadsheets or documents, you absolutely have**
6 **no investment in the Casino?**
7 MS. GASTWIRTH: Asked and answered.
8 MS. BUDD: Objection.
9 A. Absolutely.
10 **Q So if your buyout was roughly**
11 **\$5 million --**
12 A. Ten dollars short.
13 **Q. -- and you were paid \$750,000,**
14 **you're owed \$4,250,000 roughly?**
15 A. \$240,000.
16 **Q. \$4,240,000?**
17 A. I think.
18 **Q. Is that what's owed to you?**
19 A. I guess.
20 By whom?
21 **Q. By Mr. Kaufman or his entities.**
22 MS. BUDD: Objection.
23 MS. GASTWIRTH: Objection.
24 A. Some entities. I'm not sure.
25 **Q. Do you know what entity, Massena**

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1 Melius
2 **Management?**
3 A. I think it's Massena Management.
4 **Q. Massena Management Corporation or**
5 **LLC.**
6 MS. BUDD: Objection.
7 A. I don't know whatever the agreement
8 was.
9 **Q. And you testified that you brought**
10 **a lawsuit against that entity to collect that**
11 **money?**
12 A. Yes.
13 MR. BARR: Mark this.
14 (Plaintiff's Exhibit 44, fax cover
15 sheet to Gary from Arbor Management, LLC
16 followed by Summary of Investment, two
17 pages of balance sheets, and summary,
18 marked for identification, as of this
19 date, by the reporter.)
20 **Q. So you would think that Massena**
21 **Management, whether or not it's a corporation**
22 **or LLC, would show the debt to you as a**
23 **liability; would it not?**
24 MS. GASTWIRTH: Objection.
25 A. What do I know.

1 Melius
2 **Q. It should be a liability of the**
3 **company, correct?**
4 A. I don't know. They owe me money.
5 That's all I know. I don't know how they do
6 their accounting.
7 **Q. Let me show you what's been marked**
8 **as Exhibit 44; have you ever seen that?**
9 A. No, I don't recall it.
10 **Q. It's got your file stamp on it?**
11 A. Looks like it.
12 **Q. Your handwriting?**
13 A. Could be.
14 **Q. Fax cover sheet to Gary re, the**
15 **subject looks like casino with your fax line?**
16 A. Right.
17 **Q. Fax number 741-8040, correct?**
18 A. Yes.
19 **Q. From Anna Maria?**
20 A. Yes.
21 **Q. Do you know who she is?**
22 A. Yes.
23 **Q. What does she do, she works at**
24 **Arbor Management, LLC?**
25 A. Bookkeeper, accounting something.

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Melius

Q. Anywhere in those documents show the liability to you, if you could take a minute?

A. I don't see any, but I also don't see anything showing supposedly my investment which I would think if that was the case, they would put it in. It doesn't show me putting any money in.

MR. BARR: Mark this.

(Plaintiff's Exhibit 45, fax cover sheet to Gary from Arbor Management, followed by 24 pages of financial records, marked for identification, as of this date, by the reporter.)

Q. You've just been shown what's been marked as Plaintiffs Exhibit 45.

Have you ever seen that document, that fax?

A. I don't recall.

Q. It's addressed to you; is that correct?

A. This sheet says "to Gary."

MR. BARR: Actually, the fax line notes September 3, 1999. Apparently

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Melius

whoever wrote this had the wrong year MS. GASTWIRTH: I don't know.

Q. The context makes no sense for it to be '99 for the Casino.

A. It also doesn't have me receiving this on my fax.

Q. But that's your stamp.

A. Looks like it. That's what makes me concerned now about all these documents because some have my fax number on them and some don't. I don't think there's any way to turn that off, so I'm concerned. I may be wrong, but I'm concerned that these may not be true documents that I received. You see that there's no fax there. All the other things have my fax number on it. So why do these don't.

Q. Is that your handwriting next to the stamp?

A. I don't know that.

Q. It looks like it?

A. It looks like it, but I'm very suspicious of the document.

Q. You know Anna Maria?

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Melius

A. I know Anna Maria. Maybe she knows another Gary. It doesn't say me.

Q. Another Gary with a fax number 741-8040?

A. No, I don't think so. I don't know about that.

Q. She wrote here "Casino July 31 numbers and August unaudited revenue report."

You don't recall ever seeing this?

A. I don't know nothing. You're telling me this. I don't know. You're saying she wrote it. I don't know if she wrote it. I don't know if I got it. It doesn't appear it went through my fax machine.

Q. Did you ever instruct Anna to send you any financial information concerning the Casino in the fall of 1999?

A. No.

Q. No?

A. I wouldn't have that power.

Q. Any reason for her to be sending you that financial information in the fall of 1999?

A. I told you, I don't think that I

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Melius

received this.

Q. But it's got your file stamp on it?

A. But it doesn't have my fax on it. All the other ones you showed me had my faxes on it. It's suspicious to me.

Q. Can you show me in that pile what you're referring to Mr. Melius, please?

A. Sure.

Q. All the others ones have your fax.

A. Remember, we couldn't remember my fax number and then you showed me because it was on all these documents, you know.

Q. Why don't you just make a pile of the ones that have your fax that have what you're referring to?

A. I don't want a job here. If you want, you could do that.

Q. I'm not sure what you're referring to.

A. On the top. Before you would always questioned me isn't that your fax number 8040 that's stamped when it came through the machine.

Q. Not on the fax line. I think we

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1 **Melius**
 2 **may be miscommunicating, which may be very**
 3 **possible. I don't believe that the fax line**
 4 **would show your fax number on the top. This**
 5 **would be handwritten or typed in on the fax**
 6 **sheet, not on the fax line.**

7 A. No, no. Mine is on some of those.

8 **Q. Some will say "to Gary" because**
 9 **they got it programmed into their computer,**
 10 **but that doesn't mean that the fax line has to**
 11 **show you on the top. It shows where it's**
 12 **coming from. I think that's where the**
 13 **confusion is.**

14 A. I'm not confused. I remember
 15 saying to you I don't know if the fax came to
 16 me or went to me because it had the 8040 on
 17 it.

18 Listen, it doesn't matter. I'm
 19 just telling you at this point I'm confused.
 20 I don't know. I don't know what these
 21 documents are and I have concern it may be
 22 wrong, that they're not the same and I don't
 23 know who, maybe Park Place, did it. Maybe
 24 they're mad at me after we settled. I don't
 25 know.

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1 **Melius**
 2 further discussions about actually going
 3 to your offices -- your office
 4 (indicating). Excuse me for pointing,
 5 Mr. Melius.

6 THE WITNESS: That's okay. As long
 7 as it's not a gun.

8 MR. BARR: -- to review what's
 9 actually in his file based on these
 10 allegations.

11 MS. GASTWIRTH: I don't know that
 12 you have to go to the office.

13 MR. BARR: There are allegations
 14 being made that somebody is fabricating
 15 a whole host of documents?

16 THE WITNESS: I said it could be.

17 MR. BARR: And I'm summing it up
 18 within the world of proof. If you're
 19 suggesting it, then our job is to
 20 determine that that suggestion is not
 21 true. So I'm just keeping this open.

22 MS. GASTWIRTH: We can talk about
 23 it.

24 THE WITNESS: Again, there's a
 25 motive in my mind because they felt I

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1 **Melius**

2 Did they send you all of my
 3 documents?

4 Did they send you documents where
 5 they lied to the feds?

6 I don't know if they sent that too
 7 along with it.

8 **Q. After receiving this, did you ever**
 9 **have any conversations with Anna Maria**
 10 **concerning these financials?**

11 A. I said I don't know if I ever
 12 received this. You're giving me these and I
 13 didn't realize the documents were all from
 14 Park Place which has a grudge against me. I
 15 don't know if they gave you true documents.
 16 Maybe they hoodwinked you.

17 **Q. You're saying maybe they just**
 18 **created these documents, put your name on**
 19 **them?**

20 A. I don't know. I'm saying --

21 **Q. Maybe?**

22 A. Could be maybe they're mad at me,
 23 you know.

24 MR. BARR: I think, Loretta,
 25 Marlene, that we need to have

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1 **Melius**
 2 didn't treat them right. Again, the
 3 tribe and them had made a double payment
 4 in my hotel once and they wanted me to
 5 withdraw the letter. They said it
 6 would ruin the chances for a license, the
 7 deal would go away. I think they were
 8 mad at me for implementing that letter in
 9 the first place about covering up a
 10 payment.

11 MR. SEFF: Just so you understand,
 12 Mr. Melius, what we're up against here.
 13 We attempted to get documents directly
 14 from your lawyer and we were told no,
 15 you got them from Park Place. Use the
 16 ones you got from Park Place.

17 THE WITNESS: I understand. I'm
 18 not blaming you. I'm saying it could be.

19 MR. SEFF: We didn't come to your
 20 office. We didn't rifle through your
 21 files. We took what Park Place had
 22 gotten.

23 THE WITNESS: I agree. I'm saying
 24 to you there could be, in all fairness to
 25 you gentleman which are trying to do a

<p style="text-align: right;">Page 214</p> <p>1 Melius</p> <p>2 fine job here, that you didn't get maybe</p> <p>3 the right documents. I don't know.</p> <p>4 Again, I believe that there was some</p> <p>5 inproprieties done maybe before by Park</p> <p>6 Place. You know, it was an allegation</p> <p>7 that was made by Ivan. Maybe they did</p> <p>8 the same here. I don't know if they're</p> <p>9 in cahoots with the tribe on it. I don't</p> <p>10 know what's going on. They're a partner</p> <p>11 with the tribe now.</p> <p>12 MS. GASTWIRTH: We'll discuss the</p> <p>13 production issue later. Maybe we can</p> <p>14 reach some resolution with respect to</p> <p>15 that. I don't know if it has to be at</p> <p>16 Gary's offices. I don't know if the</p> <p>17 files are boxed up. We'll discuss it</p> <p>18 later.</p> <p>19 MR. BARR: Creative minds can</p> <p>20 figure something out to confirm that</p> <p>21 these documents came from Mr. Melius.</p> <p>22 MS. GASTWIRTH: I'm sure we can</p> <p>23 figure a way.</p> <p>24 THE WITNESS: I'm concerned that</p> <p>25 Park Place and the tribe are partners now</p>	<p style="text-align: right;">Page 215</p> <p>1 Melius</p> <p>2 and they're supplying the papers to</p> <p>3 their partner to try and get, you know,</p> <p>4 me or Ivan -- I mean, you're getting the</p> <p>5 papers and it's a double adversary</p> <p>6 position. I'm not saying you did</p> <p>7 wrong.</p> <p>8 MR. BARR: Let's go off the record</p> <p>9 for a minute.</p> <p>10 (Discussion off the record.)</p> <p>11 Q. So on Plaintiff's Exhibit 45 you</p> <p>12 have no recollection as to whether or not you</p> <p>13 received this document from Anna Maria Porco?</p> <p>14 A. I not only have no recollection, I</p> <p>15 have concern.</p> <p>16 Q. So you don't believe that you've</p> <p>17 received this?</p> <p>18 A. I just said I have concern over it.</p> <p>19 I have concern, as I said, because your</p> <p>20 documents came from my other litigant.</p> <p>21 MR. BARR: Did you find an example</p> <p>22 on the tag line?</p> <p>23 MS. GASTWIRTH: I really wasn't</p> <p>24 looking for it too closely.</p> <p>25 MR. BARR: Mark this.</p>
<p style="text-align: right;">Page 216</p> <p>1 Melius</p> <p>2 (Plaintiff's Exhibit 46, fax cover</p> <p>3 sheet to Gary Melius From Walter Horn,</p> <p>4 memo to Walter Horn from John Ferrucci,</p> <p>5 memo to John Ferrucci from Wesley</p> <p>6 Benedict and proposed budget, marked for</p> <p>7 identification, as of this date, by the</p> <p>8 reporter.)</p> <p>9 Q. You've just been shown what has</p> <p>10 been marked Plaintiff's 46, Mr. Melius.</p> <p>11 Did you ever see that document</p> <p>12 before?</p> <p>13 A. Don't recall.</p> <p>14 Q. First sheet is a fax to you from</p> <p>15 Mr. Horn; is that correct?</p> <p>16 A. That's what it says.</p> <p>17 Q. September 8, 1999?</p> <p>18 A. That's what this says.</p> <p>19 Q. It says "Gary, what's the politics</p> <p>20 of this?</p> <p>21 A. Yes.</p> <p>22 Q. Does it help you to refresh your</p> <p>23 recollection?</p> <p>24 A. No.</p> <p>25 Q. Is that your stamp on the top of</p>	<p style="text-align: right;">Page 217</p> <p>1 Melius</p> <p>2 that page?</p> <p>3 A. Could be.</p> <p>4 Q. Your handwriting "Saint Regis?"</p> <p>5 A. Could be.</p> <p>6 Q. And the contents of this is "TRIBAL</p> <p>7 POLICE BUDGET," second page?</p> <p>8 A. Yes.</p> <p>9 Q. No recollection of being involved</p> <p>10 with the Tribal Police budget?</p> <p>11 MS. GASTWIRTH: Objection.</p> <p>12 MS. BUDD: Objection.</p> <p>13 A. No.</p> <p>14 Q. Did you get back to Mr. Horn about</p> <p>15 the question concerning the politics on this</p> <p>16 issue?</p> <p>17 A. I told you, I don't recall it.</p> <p>18 MR. BARR: Mark this.</p> <p>19 (Plaintiff's Exhibit 47, fax</p> <p>20 cover sheet to Ivan Kaufman from John</p> <p>21 Ferrucci followed by five-page letter to</p> <p>22 Ivan from John dated 9/10/99, marked for</p> <p>23 identification, as of this date, by the</p> <p>24 reporter.</p> <p>25 Q. Let me ask you this, Mr. Melius, do</p>

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1 Melius
2 you know who Bill Thornton is?
3 A. Sure.
4 Q. Who is he?
5 A. He's a man.
6 Q. He works for you, one of your
7 companies?
8 A. No.
9 Q. Did he work for one of your
10 companies in 1999?
11 A. I believe so.
12 Q. Anderson-Blake?
13 A. Don't know.
14 Q. But he answered to you in 1999?
15 A. I believe so.
16 Q. Do you know what his duties were,
17 what his responsibilities were?
18 A. When?
19 Q. 1999.
20 A. I don't recall what goes on in
21 1999.
22 Q. Any recollection that Bill Thornton
23 was the project manager for the construction
24 of the Casino?
25 A. Yes.

1 Melius
2 Q. So having heard that, recalling
3 that then, do you know what his duties and
4 responsibilities were in 1999?
5 A. No, I don't know what years the
6 casino was built, finished, opened, closed.
7 I'm very bad on dates. So if you told me that
8 it was this, then maybe I could say.
9 Q. It was between 1998 and '99?
10 A. What?
11 Q. Construction of the Casino.
12 A. Between 1998 and '99.
13 So what's the question?
14 Q. Bill Thornton was the construction
15 supervisor and manager for the Casino.
16 What were his duties as a
17 construction manager?
18 A. What does he do as a construction
19 manager?
20 Q. Yes.
21 A. He would run the project, see that
22 it was bought out, you know, subcontracted bid
23 with whoever his assistants were. He would
24 make change orders. He would more or less run
25 the whole construction job.

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1 Melius
2 Q. Take a look at Plaintiff's 47.
3 Have you seen that before, that
4 memo?
5 A. Don't recall this at all.
6 Q. Take a look at it.
7 A. I don't remember.
8 Q. Do you know who John Ferrucci is?
9 A. Yes.
10 Q. In 1999, do you know what he was
11 doing?
12 A. I don't know when he left the
13 casino. I mean, at some period of time he was
14 the manager of the casino.
15 Q. Were you aware in September 1999 of
16 Mr. Ferrucci's concerns about Mr. Thornton?
17 A. No.
18 Q. Do you recall instructing
19 Mr. Thornton to take on certain management
20 responsibilities at the Casino in 1999?
21 A. No.
22 Q. Did you instruct him concerning the
23 number of housekeepers the Casino should
24 employ?
25 A. No.

1 Melius
2 Q. Number of Casino security officers
3 the Casino could employ?
4 A. No.
5 Q. Number of valet attendants the
6 Casino could employ?
7 A. No.
8 Q. Looking at Plaintiff's 47, that
9 doesn't help refresh any of your recollection?
10 A. I never gave any orders that had
11 anything to do with management, so I don't
12 recollect that. I don't recollect the
13 agreement. I don't recollect that.
14 MR. BARR: Mark this.
15 (Plaintiff's Exhibit 48,
16 fax cover sheet to Walter Horn from Gary
17 Melius followed by memo to Gary Melius
18 from Robert Carroll dated 10/12/99,
19 marked for identification, as of this
20 date, by the reporter.)
21 Q. Have you had a chance to take a
22 look at Plaintiff's 48?
23 A. Yes, this has my 8040 number on it,
24 so could be good.
25 Q. Could be good?

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1 **Melius**
2 A. Could be good.
3 MS. GASTWIRTH: Unlike the other
4 ones that didn't have the number on it.
5 MR. SEFF: The difference is this
6 is a fax from you instead of to you.
7 That could explain it.
8 MS. GASTWIRTH: It has a multiple
9 of fax lines.
10 THE WITNESS: I'm lucky if I could
11 push a button. I'm not good at this
12 stuff.
13 **Q. It's a fax from you to Mr. Horn.**
14 **Do you recall sending Mr. Horn a**
15 **fax on October 12, 1999?**
16 A. I don't remember nothing on
17 November 20 of '99.
18 **Q. Do you know what this is about?**
19 A. Let me see. Yes, this was Park
20 Place's original proposal to buy out Ivan. I
21 met with them, negotiated that.
22 MS. GASTWIRTH: Note my objection
23 to this line of questioning.
24 Do you have a bunch of stuff
25 on this?

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1 Melius
2 (Record read.)
3 A. I was anticipating a commission.
4 That was my lawsuit against Park Place.
5 MS. BUDD: Don't go any further.
6 There's a confidentiality
7 agreement, I guess a participation
8 agreement, so to speak, with Park Place.
9 I don't want to get into those areas
10 because I don't want my client to be in
11 violation of any agreement that exists
12 between him or his entities and Park
13 Place.
14 MR. SEFF: He's opened the door to
15 the subject of the commission. We may
16 not need to get into the minutia.
17 MR. BARR: I'm not interested in
18 that.
19 I'm just interested in what's in
20 front of us.
21 **Q. You have a document that grants you**
22 **that compensation?**
23 MS. GASTWIRTH: Objection.
24 I don't know where this is going.
25 A. I don't know if that violates any

1 Melius
2 MR. BARR: No.
3 MS. GASTWIRTH: Okay. Then let's
4 get it done.
5 **Q. Tell me what was going on here.**
6 **Looking at this memo on October 12, 1999 Bob**
7 **Carroll wrote you a fax on that day.**
8 **You faxed that document over to**
9 **Mr. Horn?**
10 A. That's correct, if that's when I
11 did it.
12 **Q. Forget about the timing.**
13 **What were you doing here?**
14 A. I was negotiating this buyout for
15 Ivan's entity against Park Place's entity.
16 **Q. Why were you doing that?**
17 **Were you doing that because you**
18 **were a partner with Mr. Kaufman or were you**
19 **doing that because you were anticipating a**
20 **commission?**
21 MS. GASTWIRTH: Objection as to
22 form.
23 MS. BUDD: Objection.
24 MS. GASTWIRTH: Can you read back
25 the question, please?

1 Melius
2 of my agreements.
3 **Q. Well, is it a handshake deal with**
4 **Mr. Kaufman?**
5 A. I wasn't getting nothing from
6 Kaufman.
7 **Q. You were getting nothing from**
8 **Kaufman?**
9 A. No.
10 **Q. Only from Park Place?**
11 A. That's correct.
12 **Q. You weren't standing to make any**
13 **money from Kaufman on the deal other than the**
14 **commission from Park Place?**
15 MS. GASTWIRTH: Objection.
16 MS. BUDD: Objection.
17 A. The only thing was to get paid what
18 was owed me for the construction and my
19 buyout.
20 **Q. And your buyout?**
21 A. And the construction balance.
22 **Q. Which you said is roughly**
23 **\$4.2 million?**
24 A. A Couple million. No, I think it's
25 two million something.

<p style="text-align: right;">Page 226</p> <p>1 Melius</p> <p>2 Q. For the construction?</p> <p>3 A. Yes.</p> <p>4 Q. For the buyout?</p> <p>5 A. The other is \$4.2 million.</p> <p>6 Q. How much are you waiting to get</p> <p>7 paid?</p> <p>8 A. \$6 million and change.</p> <p>9 Q. That's the amount that you have</p> <p>10 invested in the Casino at this point?</p> <p>11 MS. BUDD: Objection.</p> <p>12 MS. GASTWIRTH: Objection.</p> <p>13 A. I didn't say that.</p> <p>14 I said that's what's owed me.</p> <p>15 Q. That's what's owed you?</p> <p>16 A. Yes.</p> <p>17 Q. Roughly \$6 million?</p> <p>18 A. \$6 million and change.</p> <p>19 MR. BARR: Please mark this.</p> <p>20 (Plaintiff's Exhibit 49, memo</p> <p>21 to Walter Horn from John Natalone dated</p> <p>22 2/22/00, marked for identification, as of</p> <p>23 this date, by the reporter.)</p> <p>24 Q. I'm showing you what's been marked</p> <p>25 Exhibit 49.</p>	<p style="text-align: right;">Page 227</p> <p>1 Melius</p> <p>2 MS. GASTWIRTH: I can't see</p> <p>3 anything from here.</p> <p>4 Before you ask him any questions,</p> <p>5 let him look at it and then I'll take</p> <p>6 a look at it.</p> <p>7 Q. Have you ever seen this document?</p> <p>8 MS. GASTWIRTH: Wait a second.</p> <p>9 He's looking at it and I want to</p> <p>10 take a look at it.</p> <p>11 A. I don't recall the document.</p> <p>12 MS. GASTWIRTH: Wait. Stop,</p> <p>13 Stop.</p> <p>14 A. I can't say. I don't recall.</p> <p>15 MS. GASTWIRTH: You can't say</p> <p>16 anything yet.</p> <p>17 THE WITNESS: I take that back.</p> <p>18 MS. GASTWIRTH: Note my objection.</p> <p>19 I don't recall receiving this</p> <p>20 document. I don't think it was produced</p> <p>21 by the tribe. I don't know who it was.</p> <p>22 It says Anderson-Blake Melius document.</p> <p>23 That's not a notation I've seen on any</p> <p>24 document before.</p> <p>25 Do you have any clue where you got</p>
<p style="text-align: right;">Page 228</p> <p>1 Melius</p> <p>2 this one?</p> <p>3 MR. BARR: From you.</p> <p>4 MS. GASTWIRTH: No.</p> <p>5 MR. BARR: Well, we can ask</p> <p>6 Mr. Natalone. We'll ask that question of</p> <p>7 Mr. Natalone.</p> <p>8 MS. GASTWIRTH: This looks like a</p> <p>9 new one for me.</p> <p>10 Who produced those</p> <p>11 documents?</p> <p>12 MR. SEFF: Lou might know.</p> <p>13 MS. GASTWIRTH: Do you have a clue?</p> <p>14 MR. SOLOMON: No.</p> <p>15 MS. GASTWIRTH: Objection to any</p> <p>16 further line of questioning that's</p> <p>17 outside the scope of this.</p> <p>18 MR. SEFF: The answer generically is</p> <p>19 that it came in the material that was produced</p> <p>20 by you to Park Place, which Park Place</p> <p>21 produced to us.</p> <p>22 MS. GASTWIRTH: By us to Park</p> <p>23 Place.</p> <p>24 MR. SEFF: Yes.</p> <p>25 MR. SOLOMON: Are you</p>	<p style="text-align: right;">Page 229</p> <p>1 Melius</p> <p>2 differentiating?</p> <p>3 MR. SEFF: You can't say.</p> <p>4 MR. SOLOMON: You said "you" to</p> <p>5 Loretta.</p> <p>6 Loretta represents a different</p> <p>7 entity.</p> <p>8 Who are you referring to when you</p> <p>9 say it came from their production to Park</p> <p>10 Place to you?</p> <p>11 MR. SEFF: I'm referring to</p> <p>12 Anderson-Blake/Melius.</p> <p>13 MS. GASTWIRTH: There are ARC</p> <p>14 notations. There's nothing in any</p> <p>15 document that I've seen in this case that</p> <p>16 has Anderson-Blake/Melius documents.</p> <p>17 I'm concerned about where this thing came</p> <p>18 from or who marked it.</p> <p>19 MR. SEFF: I'll tell you right now,</p> <p>20 we didn't mark it.</p> <p>21 MR. BARR: The fact of the matter</p> <p>22 is we'll ask Mr. Natalone that question.</p> <p>23 It's his document with his initials on</p> <p>24 it. We have some questions to ask him</p> <p>25 anyway. This will help us understand.</p>

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1 Melius
 2 MS. GASTWIRTH: Maybe you can
 3 figure out where you got it from also.
 4 MR. BARR: We will do that without
 5 cluttering the record. That, to me, is
 6 a side issue. It's a question to
 7 Natalone.
 8 **Q. Do you have any recollection**
 9 **concerning conversations with Mr. Natalone**
 10 **concerning the Casino finances in February of**
 11 **2000?**
 12 A. Yes.
 13 **Q. You do?**
 14 A. I can't tell you a date, but I've
 15 had conversations, not finance, where Park
 16 Place lawyer Bob Carroll wanted some other
 17 information, was concerned about some numbers.
 18 **Q. So you do have a recollection?**
 19 A. I don't recall this document which,
 20 again, gives me my same concern saying you
 21 don't know where this came from. I don't know
 22 if all the other ones were like that. I was
 23 very involved in the negotiations between Park
 24 Place Entertainment and Ivan's entity for the
 25 buyout of Akwesasne.

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1 Melius
 2 **Casino?**
 3 A. I didn't say that.
 4 **Q. Then let's explore that.**
 5 **Prior to your negotiations with**
 6 **Park Place, did you receive financial**
 7 **information concerning the Casino?**
 8 A. Again, using financial as a broad
 9 statement, I would assume so, yes. What, I
 10 couldn't tell you.
 11 **Q. So then it's not hard to believe**
 12 **then, Mr. Melius, that you were receiving from**
 13 **Anna Maria and/or John Natalone Casino**
 14 **information in 1999, for example?**
 15 A. I think I want to clarify "casino
 16 information" because I said to you the only
 17 thing I remember is asking for my money, being
 18 told that they weren't making any money and
 19 they couldn't pay me and they may have sent me
 20 something to show me why they couldn't pay me.
 21 **Q. You believe that's the reason why**
 22 **you were receiving those faxes from**
 23 **Mr. Natalone and Anna Maria concerning Casino**
 24 **finances?**
 25 MS. GASTWIRTH: Objection.

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1 Melius
 2 **Q. Mr. Melius, why were you involved**
 3 **in negotiations as opposed to Mr. Kaufman or**
 4 **Mr. Horn?**
 5 A. I guess because I was the one that
 6 brought Park Place to them.
 7 **Q. Why be involved in negotiations?**
 8 **If what you've testified throughout**
 9 **today is true that you received no faxes or**
 10 **financial information, how would you have any**
 11 **information concerning the Casino?**
 12 A. Well, first of all, if I needed the
 13 information, whatever was submitted to Bob
 14 Carroll would be done at that time would not
 15 come from me. So to negotiate part of
 16 something, I don't need to have a past
 17 experience in it. I just need to know what
 18 both parties wanted. One party was going to
 19 make a purchase and a sale. Each one asked me
 20 for something. I supplied it to the other one
 21 at that moment.
 22 **Q. So prior to your dealings with Park**
 23 **Place concerning the sale of the Casino, you**
 24 **had no information, you received no**
 25 **information concerning the finances of the**

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1 Melius
 2 A. First, I never said I got anything
 3 from Anna Maria.
 4 I said I think the document is
 5 skeptical and I think. As a matter of fact,
 6 if you want to come to my office, I would
 7 welcome it.
 8 MS. BUDD: Gary.
 9 A. But I want you to do each document
 10 page by page, word by word. You know, your
 11 documents could have a few different words in
 12 it that changes the whole thing. Please bring
 13 somebody and let somebody read that and I'll
 14 be glad to do that with you.
 15 MR. BARR: Mark this.
 16 (Plaintiff's Exhibit 50, fax cover
 17 sheet to Gary Melius from Walter Horn
 18 followed by 12-page attorney-client
 19 privileged communication to Walter Horn
 20 from Alan Mittman dated 2/22/00, marked
 21 for identification, as of this date, by
 22 the reporter.)
 23 **Q. Take a look at what's been marked**
 24 **as Plaintiff's Exhibit 50.**
 25 MS. GASTWIRTH: Objection.

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1 Melius
2 This is attorney-client privileged
3 and so I have no idea. It's marked
4 "attorney-client privilege
5 communication." I have no idea what it's
6 doing here.
7 MS. BUDD: Note my objection as
8 well.
9 DI. I direct him not to answer.
10 MS. GASTWIRTH: The whole thing
11 is a draft attorney-client work product
12 privileged communication. I don't know
13 where this is going.
14 MR. BARR: You produced this
15 document.
16 MS. GASTWIRTH: I didn't produce
17 this document.
18 MR. BARR: Well, your client as of
19 today produced this document. Mr. Melius
20 produced this document.
21 MS. GASTWIRTH: He's not my client.
22 MR. BARR: You're representing him
23 in a joint defense.
24 THE WITNESS: I never gave you any
25 document.

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1 Melius
2 MR. BARR: You watch. Give me a
3 second here.
4 **Q. Have you ever received this fax?**
5 A. I have no idea.
6 **Q. Is that your file stamp on the top?**
7 A. Maybe.
8 **Q. "Saint Regis Park Place," is that**
9 **your handwriting?**
10 A. Could be.
11 **Q. Do you have a separate file for**
12 **Park Place?**
13 A. Don't know.
14 MS. GASTWIRTH: Can we take a break
15 for just like two minutes?
16 Can we all take a break for two
17 minutes.
18 (Recess taken.)
19 MR. BARR: Mark this.
20 (Plaintiff's Exhibit 51, letter
21 to Michael Axelrod from Gary Melius dated
22 3/6/00, followed by fax activity report,
23 marked for identification, as of this
24 date, by the reporter.)
25 **Q. Plaintiff's Exhibit 51 is in front**

1 Melius
2 MS. GASTWIRTH: If there was a
3 production of this document, I don't see
4 a Bates stamp number.
5 MS. BUDD: I don't see it on it
6 either.
7 MS. GASTWIRTH: This is an
8 inadvertent production and I'm preserving
9 that this is an attorney-client
10 privileged communication. We can fight
11 about it. I don't know where you're
12 going. Why are we talking about Park
13 Place?
14 **Q. It is faxed to you, Mr. Melius; is**
15 **it not?**
16 MS. GASTWIRTH: How many more of
17 these Park Place documents do you have?
18 MR. BARR: I got a bunch. I don't
19 need to explain what documents I have.
20 DI. MS. GASTWIRTH: I think I'm going
21 to direct him not to answer.
22 MR. SEFF: I think we're careful
23 not to pry into the Park Place --
24 THE WITNESS: It say on it Park
25 Place. I don't care.

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1 Melius
2 **of you?**
3 MS. GASTWIRTH: Note my objection
4 to the document.
5 I think we're going in the wrong
6 direction.
7 Go ahead.
8 **Q. Is that your signature?**
9 A. I don't think so.
10 **Q. No?**
11 A. No.
12 **Q. How about the file stamp, does that**
13 **look like your file stamp?**
14 A. Could be.
15 **Q. And the handwriting, "Saint Regis**
16 **Park Place?"**
17 A. Looks like it.
18 **Q. Letter written to Michael Axelrod;**
19 **do you know what that is?**
20 A. Yes.
21 **Q. Do you recall this letter?**
22 **Do you recall writing this letter?**
23 A. Somewhat. I don't recall the
24 letter. There was something going on at that
25 time. I don't know if I wrote a letter or

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Page 239

1 Melius
2 not.
3 **Q. What was that "something" going on**
4 **with Mr. Axelrod at that time?**
5 A. Just that, I guess, I was talking
6 with Ivan and Park Place and somebody, I
7 guess, from Mirage called and I knew Michael
8 was friends with somebody out there. So I
9 think I wrote this letter.
10 **Q. Were you trying to sell the Casino**
11 **or the management contractor, Mr. Ivan**
12 **Kaufman's management interest in this**
13 **management contract to another casino**
14 **operator?**
15 A. Yes.
16 **Q. What was your compensation package**
17 **for doing that?**
18 A. I didn't have any compensation. I
19 didn't negotiate anything until I could talk
20 to somebody.
21 **Q. That was your preliminary**
22 **negotiations before you got to discussing your**
23 **compensation package for possibly putting**
24 **together a deal?**
25 A. I would have asked for a fee from

1 Melius
2 the purchaser.
3 **Q. A fee from the purchaser?**
4 A. Yes.
5 **Q. You never went anywhere with Mirage**
6 **on that?**
7 A. No.
8 **Q. Did you talk to Mr. Kaufman or**
9 **Mr. Horn about that introduction?**
10 A. I don't recall.
11 MR. BARR: Mark this.
12 (Plaintiff's Exhibit 52, fax cover
13 sheet to Gary Melius from Ruth followed
14 by four-page agreement dated 3/22/00,
15 marked for identification, as of this
16 date, by the reporter.)
17 **Q. Have you had a chance to take a**
18 **look at Exhibit 52?**
19 MS. GASTWIRTH: Hold on a
20 second. He's doing that now.
21 A. Okay, yes.
22 **Q. Do you remember receiving this**
23 **document?**
24 A. No.
25 **Q. It's addressed to you, Gary Melius,**

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1 Melius
2 **at Castle Ventures.**
3 MS. GASTWIRTH: The fax cover
4 sheet; is that what you're referring to?
5 MR. BARR: Yes the fax cover sheet.
6 A. Yes.
7 **Q. That's your file stamp?**
8 A. It appears to be.
9 **Q. And your signature?**
10 A. Looks like it.
11 **Q. What does it say, "Saint Regis**
12 **Arbor?"**
13 A. Looks like it.
14 **Q. It says "Gary, this agreement was**
15 **faxed to Gary Rettell, executed and returned**
16 **to us."**
17 **Do you know what that's about?**
18 A. No.
19 **Q. It's concerning the Saint Regis**
20 **Mohawk Tribe Casino?**
21 A. I have no idea what this is.
22 **Q. Who is Ruth?**
23 A. Ruth?
24 **Q. Yes.**
25 A. What the hell do I know?

1 Melius
2 **Q. That's who sent you the fax?**
3 A. Same answer.
4 **Q. You have no idea who Ruth is at**
5 **Arbor National Commercial Mortgage?**
6 A. No.
7 **Q. She sent you a fax, though, on**
8 **March 22, 2000?**
9 A. She didn't send me flowers.
10 I have no idea who she is.
11 **Q. She has a comment here "Gary, this**
12 **agreement was faxed to Gary Rettell, executed**
13 **and returned to us."**
14 **You still have no idea what this is**
15 **about?**
16 A. No.
17 **Q. Were you looking to sell the**
18 **Akwesasne Mohawk Casino or an interest in it**
19 **to Activeware Associates?**
20 MS. GASTWIRTH: Objection.
21 MS. BUDD: Objection.
22 **Q. You can answer it, if you recall.**
23 A. I don't know. I have no idea.
24 **Q. Were you looking to obtain**
25 **financing for the Casino from Activeware?**

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1 **Melius**
2 MS. GASTWIRTH: Objection.
3 A. I don't recall this company at all.
4 I don't know if I had anything to do with this
5 at all.
6 **Q. You've never heard of this company**
7 **Activeware Associates?**
8 A. No, not that I recall.
9 **Q. Apparently Ruth from Arbor National**
10 **had sent this to you.**
11 **Have you no idea why this document**
12 **was sent to you?**
13 A. I told you, I have no idea who Ruth
14 is.
15 THE WITNESS: I have to make one
16 call.
17 MR. BARR: Mark this.
18 (Plaintiff's Exhibit 53, draft
19 letter to Joseph Membrino from Gary
20 Melius dated 5/17/01, marked for
21 identification, as of this date, by the
22 reporter.)
23 **Q. Do you recall drafting this letter,**
24 **Mr. Melius?**
25 A. No.

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1 Melius
2 MS. GASTWIRTH: So go right ahead.
3 **Q. Is that your handwriting at the top**
4 **marked "draft?"**
5 A. No.
6 **Q. It's not your handwriting**
7 **throughout the document?**
8 A. I don't know.
9 **Q. So you don't think you ever sent**
10 **this to Membrino?**
11 A. Not that I know of.
12 MR. BARR: I guess that's another
13 ground as to why it's not an
14 attorney-client privileged communication.
15 A. Yeah, I sent it.
16 **Q. Now you have my attention then.**
17 A. No, I'm teasing.
18 **Q. Do you know what your understanding**
19 **of why the NIGC failed to approve you as a**
20 **manager of the casino at Akwesasne?**
21 A. What do I believe?
22 MS. GASTWIRTH: Note my objection
23 to this whole line of questioning.
24 MS. BUDD: Objection.
25 MS. GASTWIRTH: I leave it up to

1 Melius
2 MS. BUDD: Objection.
3 This is an attorney-client
4 privileged document.
5 I'm going to preserve that
6 objection, work product.
7 MR. BARR: It's all been produced.
8 MS. BUDD: I don't care. It was
9 produced inadvertently. I'm going to
10 preserve it.
11 MR. BARR: It's been produced.
12 MS. GASTWIRTH: I don't think
13 that's the rule, but note my objection as
14 well.
15 Go ahead.
16 MR. BARR: The document is
17 produced. When a statement is made, a
18 statement is made.
19 MS. GASTWIRTH: I think we actually
20 in this case we have the same
21 confidentiality stip and we've agreed to
22 that in writing. I think there's an
23 inadvertent production clause.
24 Go ahead and ask him.
25 MR. BARR: I don't have much here.

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1 Melius
2 the witness to answer this one.
3 A. I'm trying to think what the answer
4 is to why they didn't approve me.
5 I think, first of all, my
6 settlement with them is they didn't disapprove
7 me. So I don't think that's an issue. I
8 think that's my settlement. If I have a
9 letter from them, a statement is our
10 settlement. They didn't disapprove.
11 **Q. They never approved the pending**
12 **management contract with you?**
13 A. That is correct.
14 **Q. Do you know the reasons why they**
15 **did not approve you?**
16 A. No.
17 MS. GASTWIRTH: When you said "not
18 approve," he testified not approve the
19 management agreement.
20 MR. BARR: Yes.
21 THE WITNESS: They don't approve
22 people. They approve contracts.
23 **Q. I want to see if you remember any**
24 **of this, if you wrote this last paragraph of**
25 **this draft letter from you. "I am extremely**

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1 Melius
2 disturbed that when you told me after the
3 Harold Monteau deposition that the case was
4 now weak because he said that he did not issue
5 my license because I had had gaming debts in
6 Atlantic City," does that refresh your
7 recollection as to writing this?
8 A. I mean, I remember that issue. I
9 don't remember writing this, but I remember
10 the issue.
11 Q. "I do not understand how you after
12 this deposition could feel that there was no
13 longer a great case. Did you expect Monteau
14 to confess? It's preposterous to believe that
15 any jury or judge would believe considering
16 some of the comments and previous testimony,
17 (ie, the NIGC wanted me 1,000 miles from the
18 reservation and I could have nothing to do
19 with anyone connected to the casino project)
20 that it took them three years for them to come
21 to this diagnosis when they had information
22 from day one."
23 Does that refresh your recollection
24 you writing this letter or drafting this
25 letter?

1 Melius
2 A. I don't know if I sent a letter. I
3 know those issues, if you want to ask me that.
4 Q. Is that true that the NIGC wanted
5 you 1,000 miles away from the Casino and
6 nothing to do with anyone connected with the
7 Casino project?
8 A. I don't know that I mean. There
9 were comments. They were saying derogatory
10 comments about me. They have no right to put
11 me one mile from any place. It's here nor
12 there. They can't tell me I can't go inside
13 the casino. It's a moot point, I think.
14 Q. As far as being a manager of a
15 casino. They may not be able to prevent you
16 from walking in and gaming. As far as being
17 the manager.
18 A. Either they approve me. I'm the
19 manager or I'm not the manager. There's no
20 more than that.
21 MR. BARR: Mark this.
22 (Plaintiff's Exhibit 54, two-page
23 letter to Gary Melius from Joseph
24 Membrino dated 8/24/01 followed by check
25 receipt, marked for identification, as of

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1 Melius
2 this date, by the reporter.)
3 Q. Before you start looking at that,
4 do you recall how much money you spent with
5 Mr. Membrino in the prosecution of your
6 lawsuit against the NIGC?
7 A. No.
8 MS. BUDD: Objection.
9 Q. Is it about \$1.5 million?
10 A. I have no idea. No, I didn't spend
11 that against the prosecution of NIGC.
12 Q. Looking at Plaintiff's Exhibit 53,
13 it says second page last sentence of the
14 fourth to last paragraph "my associates and I
15 have paid over \$1.5 million to your firm and
16 your success rate is zero."
17 Does that refresh your
18 recollection?
19 MS. BUDD: I'm going to object to
20 this line of questioning.
21 I don't know where it's going.
22 A. He handled -- I told you I was
23 doing other Indian deals. When first involved
24 with Park Place, not Park Place President,
25 Riverboat Casino, it was over years.

1 Melius
2 Q. The document in front of you is
3 marked as Exhibit 54?
4 A. Yes.
5 MS. GASTWIRTH: Objection to this
6 document. It's an attorney-client
7 privilege document.
8 MR. BARR: It's been produced.
9 MS. BUDD: That's not the issue.
10 MS. GASTWIRTH: There's
11 stipulations on this thing on inadvertant
12 production.
13 Note my objection.
14 Q. Do you recall receiving this letter
15 from Mr. Membrino on August 24, 2001?
16 A. I remember getting a letter like
17 this. I don't know if that's the letter, but
18 yes.
19 Q. It says here "we have agreed to
20 that reduction based on the understanding that
21 in the event that Ivan Kaufman or his business
22 entity that succeeded to your interest in the
23 Saint Regis Mohawk gaming development receives
24 any payment from proceeds derived from the
25 casino management contract or litigation

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1 **Melius**
2 **related to the Saint Regis Mohawk Tribe, you**
3 **have no objection to our negotiating with him**
4 **for payment of your account for the work our**
5 **firm did at your direction on Mr. Kaufman's**
6 **behalf;" what do you understand that to mean?**
7 A. I understand that they did work for
8 Ivan Kaufman and they wanted to get paid for
9 it and if he got his money like I was trying
10 to get paid for my construction, they would
11 pay him.
12 **Q. What work would Mr. Membrino have**
13 **done for Mr. Kaufman under the Privacy Act**
14 **litigation that you had?**
15 A. None.
16 **Q. Why would Mr. Kaufman be paying any**
17 **of Mr. Membrino's fees from the proceeds of**
18 **the Casino?**
19 A. It wasn't paying any more for my
20 privacy act --
21 MS. BUDD: Objection.
22 A. It was doing -- as you read on the
23 bottom -- you have selective reading here --
24 on Kaufman's behalf, not for my behalf.
25 **Q. That's your stamp?**

1 **Melius**
2 MS. GASTWIRTH: Lefthand corner.
3 A. Looks like it and could be.
4 **Q. Your handwriting?**
5 A. Could be.
6 **Q. I'm just trying to understand this.**
7 **It says here "you have no objection**
8 **to our negotiating with him for payment of**
9 **your account for the work our firm did at your**
10 **direction on Mr. Kaufman's behalf." The**
11 **payment of "your account."**
12 A. Okay.
13 **Q. "For the work this firm did at your**
14 **direction on Mr. Kaufman's behalf?**
15 MS. GASTWIRTH: I don't know if it
16 says that.
17 MS. BUDD: I don't know.
18 **Q. "Your direction on Mr. Kaufman's**
19 **behalf."**
20 A. Again, I had a running account with
21 them. So I owed them money. Apparently
22 Ivan's firm used him for some work. They
23 tried to hold it to me. I said look, I'm not
24 paying that. It has nothing to do with me.
25 **Q. Okay, I understand.**

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1 **Melius**
2 A. Go get it from him. I'm giving you
3 the right like I give you the right to ask him
4 for money. What do I care? You can ask
5 anybody. Don't ask me.
6 **Q. Mr. Melius, who is Roger Diller?**
7 A. An architect.
8 **Q. For whom did he work for in the**
9 **period of 1997 to 2000?**
10 A. I have no idea.
11 **Q. One of your companies?**
12 A. I believe so.
13 **Q. Did he work for Archon?**
14 A. Don't know.
15 **Q. How about Warren Schiffman,**
16 **S-c-h-i-f-f-m-a-n?**
17 A. Right.
18 **Q. Who is Mr. Schiffman?**
19 A. He's a creep.
20 **Q. Did he work for you?**
21 A. He did.
22 **Q. During 1997 to 2000?**
23 A. Don't know.
24 **Q. Do you know what company he worked**
25 **for?**

1 **Melius**
2 A. No.
3 **Q. Why is he a creep?**
4 A. Do you really care?
5 I don't like him.
6 **Q. Do you know how Anderson-Blake was**
7 **selected as the general contractor for the**
8 **casino?**
9 A. I don't know what you mean by that.
10 **Q. How was Anderson-Blake selected as**
11 **the general contractor for the Casino?**
12 A. It was negotiated from the
13 beginning.
14 **Q. From the beginning?**
15 A. From when Ivan bought out my
16 interest that Anderson-Blake would stay on and
17 do the construction agreed between him, Ed
18 Smoke that we would do that.
19 **Q. So Ivan knew that you owned**
20 **Anderson-Blake?**
21 A. Yes. Well, again, I assume he
22 knew. You have to ask him what he knew, but I
23 assume he knew.
24 A. One other thing, Wally Barr is he a
25 relation of yours?

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1 Melius
2 **Q. No.**
3 A. Nowhere along the line.
4 **Q. Nowhere along the line?**
5 A. Just coincidence he works at Park
6 Place, Wally Barr.
7 **Q. No, no relation.**
8 A. Make me check.
9 **Q. Do you have any other questions?**
10 A. No, I rest.
11 MR. BARR: Let me take a couple of
12 minutes here.
13 MR. BARR: Mark this.
14 (Plaintiff's Exhibit 55, agreement
15 dated 6/5/98, letter and spreadsheet,
16 marked for identification, as of this
17 date, by the reporter.)
18 **Q. Take a look at Plaintiff's Exhibit**
19 **55. It's composed of an agreement with**
20 **Mr. Borrello, a letter from Mr. Borrello to**
21 **you and then a spreadsheet detailing payments.**
22 **Have you ever seen these documents**
23 **before?**
24 A. I don't recall.
25 **Q. Who is John Borrello?**

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1 Melius
2 **June of 1998; is that correct?**
3 A. That's what this says.
4 **Q. Do you have any reason to disagree**
5 **with that or deny that you entered into this**
6 **agreement in June of 1998?**
7 A. I just don't remember.
8 **Q. Well, take a look at the agreement.**
9 A. I wouldn't remember. It wouldn't
10 help me. I don't know the dates. I couldn't
11 tell you the date. I couldn't tell you if
12 that's the agreement. I could just tell you
13 that I had an agreement with him.
14 **Q. Is that the agreement in front of**
15 **you?**
16 A. I don't know.
17 **Q. Well, take a look.**
18 A. I wouldn't know. I could read it
19 five times. I'm not going to know if this was
20 the agreement. I have to look at my own thing
21 and say that's the agreement. I don't know.
22 **Q. It's got your signature at the end**
23 **of it?**
24 A. That appears to be, not like the
25 other one.

1 Melius
2 A. He was the fellow who first
3 approached me to get involved in, I think, '92
4 or something with the tribe.
5 **Q. Get involved. What do you mean by**
6 **get involved?**
7 A. You know, that they had a casino.
8 That's when I brought President Riverboat
9 Casino to them.
10 **Q. What role would he have had in the**
11 **management of the Casino?**
12 A. Nothing. I don't think he was ever
13 in it.
14 **Q. Where did he live?**
15 A. I think he lived in Howard Beach.
16 **Q. If you look at the letter, he's got**
17 **a residence in Howard Beach and Hogansburg.**
18 A. I don't know where he lived in
19 Hogansburg.
20 **Q. Is he Native American?**
21 A. Claims to be.
22 **Q. And you recall this agreement?**
23 A. I recall I had an agreement with
24 him.
25 **Q. You entered into this agreement in**

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1 Melius
2 **Q. This one appears to be it?**
3 A. Could be.
4 **Q. Not the other one?**
5 A. You see, the other one had two
6 things. It's different. A lot of time people
7 in my office sign my name. Other people sign
8 stuff for me if I'm not around.
9 **Q. So what Casino management**
10 **responsibilities did you have in June of 1998**
11 **that you were referring to in paragraph 1(c)?**
12 A. I have no idea.
13 **Q. Paragraph 1(c) is on page 2.**
14 A. Let me look and see. I'm sorry.
15 MS. GASTWIRTH: Let him look at the
16 agreement.
17 Could I have the question read
18 back.
19 (Record read.)
20 A. I don't see here that it says I did
21 any management.
22 It says he can't do any management.
23 **Q. It says "specifically with respect**
24 **to any claims or alleged claims Borrello may**
25 **have relating directly or indirectly to the**

65 (Pages 254 to 257)

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1 **Melius**
2 **operation or management of a gambling casino**
3 **on the reservation of Saint Regis Mohawk Tribe**
4 **in Hogsburg, New York."**
5 A. Right. What does that have to do
6 with me?
7 MS. GASTWIRTH: Can I see that
8 document before we have another question.
9 Hang on one second.
10 Okay. Go ahead.
11 **Q. What impediment on paragraph one**
12 **were you and Mr. Borrello referring to that**
13 **being associated with Mr. Borrello, what**
14 **impediment would that create in you obtaining**
15 **approval of a license that may be required in**
16 **order to be involved in any manner in the**
17 **operation or management of a gambling casino?**
18 A. His character was, you know, in
19 question. He did some time and some things,
20 you know, I felt it would be detrimental for
21 me to be associated with him.
22 MR. BARR: Okay. No further
23 questions.
24 Thank you, Mr. Melius.
25 THE WITNESS: My pleasure.

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1 **Melius**
2 but I was at a meeting with all of them where
3 he got a check for \$150,000 bucks.
4 **Q. That was Ed Smoke?**
5 A. Ed Smoke, yes.
6 **Q. What other things occurred, if you**
7 **remember, at that meeting?**
8 A. We talked about the construction,
9 me doing the construction and being in the
10 best position because I had all the plans and
11 I had started the construction. I already had
12 a foundation in that I had done with President
13 Riverboat -- their names are confusing, so
14 excuse me -- which was done a couple of years
15 ago and I was very involved with the site. I
16 knew everything about it, so I thought it was
17 best and we would move quicker if I was to do
18 the construction and he was grateful for me
19 for bringing Ivan in and that the deal got
20 done and that he wanted to take me to dinner.
21 **Q. Wait. Before we get to dinner.**
22 **When you say "you," you're talking**
23 **about Anderson-Blake?**
24 A. Anderson-Blake.
25 **Q. Being retained to do the**

1 **Melius**
2 MS. GASTWIRTH: I just have one or
3 two.
4 EXAMINATION
5 BY MS. GASTWIRTH:
6 **Q. If there were any management**
7 **decisions made at the Casino who, if anyone,**
8 **were you aware made them?**
9 A. Ivan Kaufman was the only one and,
10 I guess, Ferrucci.
11 **Q. I'm going to show you a document**
12 **that's annexed to the Complaint. I'm going to**
13 **put it in. I think it's Exhibit 3 to the**
14 **Complaint, so I'm not going to mark it. It's**
15 **the January 14, 1998 letter from Massena**
16 **Management to Ed Smoke; do you remember this?**
17 Have you seen that document before
18 today?
19 A. I don't recall. It would be bad
20 for me to recall this.
21 **Q. Were you at a meeting on January**
22 **14, 1998 with Ed Smoke and Ivan Kaufman and**
23 **Walter Horn and I think Dexter Lehtinen was**
24 **there?**
25 A. Well, I don't know about the date,

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1 **Melius**
2 **construction.**
3 **So at that meeting is it fair to**
4 **say that Ed Smoke approved the retention of**
5 **Anderson-Blake for the construction of the**
6 **Casino?**
7 A. Yes.
8 **Q. Were you introduced to Ed Smoke at**
9 **that meeting?**
10 A. Yes.
11 **Q. And how were you introduced?**
12 A. Hi, this is Ed Smoke.
13 **Q. Were you introduced and explained**
14 **who you were?**
15 A. Yes, yes.
16 **Q. Can you tell me what you said to Ed**
17 **Smoke about who you were?**
18 A. Well, I don't know if I said it,
19 but it was said that I was, you know, who I
20 was and I was Anderson-Blake and I was the
21 contractor, you know, previously.
22 **Q. And you mentioned that you had**
23 **dinner after that meeting with Ed Smoke?**
24 A. Yes, Ed and his wife, they wanted
25 to take me out to dinner with Rick Hamlin. He

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1 Melius
2 was appreciative that I had done this, put it
3 together, they would finally get the Casino.
4 I thought since he was in my area, I took him
5 out to Oheka instead.

6 **Q. Did you talk about the construction
7 of the Casino?**

8 A. Yes.

9 MS. BUDD: I have nothing further.

10 MR. BARR: No questions.

11 (Time noted: 5:45 p.m.)
12
13
14

15 _____
16 GARY MELIUS

17 Subscribed and sworn to before me
18 this _____ day of _____, _____.
19
20

21 _____
22 NOTARY PUBLIC
23
24
25

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1 Melius
2 C E R T I F I C A T E
3 STATE OF NEW YORK)
4) ss.:
5 COUNTY OF NASSAU)
6

7 I, DONNA PALMIERI, a Notary Public
8 within and for the State of New York, do
9 hereby certify:

10 That GARY MELIUS, the witness whose
11 deposition is hereinbefore set forth, was duly
12 sworn by me and that such deposition is a true
13 record of the testimony given by such witness.

14 I further certify that I am not
15 related to any of the parties to this action
16 by blood or marriage; and that I am in no way
17 interested in the outcome of this matter.

18 IN WITNESS WHEREOF, I have hereunto
19 set my hand this _____ day of _____,
20 _____.

21 _____
22 DONNA PALMIERI
23
24
25

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1 Melius
2 ----- I N D E X -----
3 WITNESS EXAMINATION BY PAGE
4 GARY MELIUS MR. BARR 6
5 MS. GASTWIRTH 258

6 ----- INFORMATION REQUESTS -----
7 DIRECTIONS: 21, 234, 235
8 RULINGS: 20
9 TO BE FURNISHED: None

10 REQUESTS: None

11 MOTIONS: None

12 ----- EXHIBITS -----
13 PLAINTIFF'S FOR ID.

14 1 four-page document:
15 Watertown Daily Times article,
16 Tribal Council resolution,
17 handwritten notes and NYS
18 Police letter 31
19 2 letter to Ed Smoke from
20 Harold Monteau dated 9/19/96 50
21 3 two-page memo to Henry Gusky,
22 and Walter Horn from Joseph
23 Membrino dated 12/6/96 51
24 4 11-page Agreement for Purchase
25 Of Partnership Interest 52

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1 Melius
2 ----- EXHIBITS -----
3 PLAINTIFF'S FOR ID.

4 5 two-page memo to Ivan Kaufman
5 and Gary Melius from Walter Horn
6 dated 10/21/97 56

7 6 fax cover sheet to Gary Melius
8 from Edward Germano and
9 three-page letter to Gary Melius
10 from Edward Germano dated
11 11/11/97 56

12 7 fax cover sheet to Gary Melius
13 from Richard Starr and two-page
14 memo to Gary Melius from Richard
15 Starr dated 1/9/98 61

16 8 fax cover sheet to Ivan Kaufman
17 from Richard Starr and three-page
18 memo to Ivan Kaufman from Richard
19 Starr dated 1/12/98 63

20 9 fax to Gary Melius from Zach
21 Van Buren dated 1/15/98 67

22 10 two page new article with Post-It
23 fax note to Gary Melius from
24 Walter Horn 70

25 11 two-page memo to file from Walter

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1	Melius	1	Melius
2	----- Exhibits -----	2	----- EXHIBITS -----
3	PLAINTIFF'S FOR ID.	3	PLAINTIFF'S FOR ID.
4	Horn dated 7/21/98 73	4	19 fax cover sheet to Gary Melius
5	12 fax cover sheet to Gary Melius	5	from David Larson followed by
6	from David Freedman and	6	nine-page Loan Placement
7	two-page letter to Mr. Kaufman	7	Agreement 115
8	From Jack Deremer 75	8	20 handwritten memo to Gary Melius
9	13 fax cover sheet to Gary Melius	9	from Walter Horn and three-page
10	From David Freedman and two-page	10	Notice and Acknowledgement of
11	letter to Ivan Kaufman from	11	Pledge 118
12	Steven Erickson 79	12	21 four-page letter to Fred
13	14 memo to Al Crary from Gary Melius	13	Stuckwisch from President R.C.
14	Dated 10/21/98 83	14	Saint Regis Management Company 120
15	15 eight-page Loan Placement	15	22 memo to Ivan Kaufman, John
16	Agreement 89	16	Ferrucci and Gary Melius from
17	16 fax cover sheet to Gary Melius	17	Walter Horn 122
18	from Dave Larson nine-page	18	23 fax cover sheet to Sentor
19	Loan Placement Agreement 98	19	Alphonse D'Amato from Walter
20	17 fax cover sheet to Gary Melius	20	Horn, note and Notice to
21	from David Larson 105	21	On-Premises Licensees 124
22	18 fax cover sheet to Gary Melius	22	24 five-page document titled
23	and Walter Horn from	23	"For Gary Eyes Only" 125
24	David Larson and eight-page	24	25 fax cover sheet to Gary Melius
25	Loan Placement Agreement 113	25	and William Helmreich from
Page 268		Page 269	
1	Melius	1	Melius
2	----- EXHIBITS -----	2	----- EXHIBITS -----
3	PLAINTIFF'S FOR ID.	3	PLAINTIFF'S FOR ID.
4	Walter Horn and five-page	4	dated 5/19/99 and letter to
5	memo to John Ferrucci and	5	to Thomas McKeon from Walter
6	Walter Horn from Rich Duda	6	horn dated 5/19/99 144
7	dated 4/30/99 130	7	31 28-page Akwesasne Mohawk Casino
8	26 two-page memo to Gary Melius	8	marketing document 147
9	from Joan Cergol dated	9	32 two-page memo to file from
10	5/12/99 131	10	John Natalone dated 6/7/99 150
11	27 fax cover sheet to Gary Melius	11	33 two letters to Thomas McKeon
12	from John Ferrucci and two-page	12	from Walter Horn dated 6/7/99 154
13	Letter to Frank Vinchiarello	13	34 letter to Thomas McKeon from
14	from John Ferrucci dated	14	Walter Horn dated 6/11/99 155
15	5/14/99 134	15	35 fax cover sheet to Gary Melius
16	28 fax cover sheet to Gary Melius	16	from Ivan Kaufman and
17	from John Ferrucci and letter	17	advertisement and memo to
18	to Nancy Mullin from Richard	18	Walter Horn from Rich Duda
19	Duda dated 5/18/99 135	19	dated 6/15/99 156
20	29 fax cover sheet to Gary Melius	20	36 fax cover sheet to Gary Melius
21	from John Natalone and three	21	from David Larson and three-page
22	pages of financial information 138	22	Letter to Ivan Kaufman from
23	30 fax cover sheet to Gary Melius	23	David Larson and engagement fee
24	From Walter Horn and letter to	24	schedule 157
25	Walter Horn from Thomas McKeon	25	37 memo to Gary Melius from John

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1 Melius
 2 ----- EXHIBITS -----
 3 PLAINTIFF'S FOR ID.
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 3 NAME OF CASE: Saint Regis vs. President
 4 DATE OF EXAMINATION: 3/24/04
 5 NAME OF WITNESS: MELIUS, GARY
 6 Reason codes:
 7 1. To clarify the record.
 8 2. To conform to the facts.
 9 3. To correct transcription errors.
 10 Page: _____ Line _____ Reason _____
 11 From _____ to _____
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